

VIRGINIA:

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD

NOVEMBER 15, 2011

APPEARANCES:

**BOARD MEMBERS:**

KATIE DYE - PUBLIC MEMBER  
KEITH ALLEN COMPTON - PUBLIC MEMBER  
BILL HARRIS - PUBLIC MEMBER  
BRUCE PRATER - GAS REPRESENTATIVE  
MARY QUILLEN - PUBLIC MEMBER

**CHAIRMAN:**

BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD

RICK COOPER- ACTING DIRECTOR OF THE DIVISION OF GAS &  
OIL AND PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD  
JIM LOVETTE - STAFF MEMBER OF THE DGO

SHARON PIGEON - SR. ASSISTANT ATTORNEY GENERAL

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1            BUTCH LAMBERT: Okay, good morning, ladies and  
2 gentlemen. It's time to begin our proceedings this  
3 morning. If you will, please take a seat. I'd like to  
4 remind you this morning, if you have cell phones or  
5 other communication devices, please turn those off or  
6 put them on vibrate. If you have to take a call or a  
7 message, please do so out in the hall. These  
8 proceedings are being recorded and our recorder needs to  
9 be able to hear what is being said before the Board this  
10 morning. Before we begin, I'd like to ask the Board to  
11 please introduce themselves. I'll begin with Ms. Dye.

12            KATIE DYE: Good morning. I'm Katie Dye. I'm a  
13 public member from Buchanan County.

14            SHARON PIGEON: I'm Sharon Pigeon with the  
15 office of the Attorney General.

16            BUTCH LAMBERT: I'm Butch Lambert with the  
17 Department of Mines, Minerals and Energy.

18            ALLEN COMPTON: Allen Compton from Dickenson  
19 County.

20            BILL HARRIS: I'm Bill Harris, a public member  
21 from Wise County.

22            BRUCE PRATHER: I'm Bruce Prather. I represent  
23 the oil and gas industry on the Board.

24            MARY QUILLEN: Mary Quillen, a public member.

25            BUTCH LAMBERT: Thank you. At this time, we

1 will enter into public comment. I have signed up this  
2 morning, Martha Gwilliams.

3 MARTHA GWILLIAMS: I tell you, Mr. Chairman,  
4 you're not calling that case today. So, I will...I have  
5 nothing to say (inaudible).

6 BUTCH LAMBERT: Okay. Thank you, Ms. Gwilliams.  
7 The first item our docket is a petition from CNX Gas  
8 Company for disbursement of funds from escrow and  
9 authorization of direct payment of royalties from unit  
10 EE-37. This will be docket number VGOB-03-1021-1205-01.  
11 All parties wishing to testify, please come forward.

12 MARK SWARTZ: Mark Swartz and Anita Duty.

13 BUTCH LAMBERT: Good morning.

14 MARK SWARTZ: Good morning.

15 BUTCH LAMBERT: Dragging your box.

16 ANITA DUTY: Get ready.

17 (Anita Duty is duly sworn.)

18 BUTCH LAMBERT: You may begin, Mr. Swartz.

19

20 ANITA DUTY

21 having been duly sworn, was examined and testified as  
22 follows:

23 DIRECT EXAMINATION

24 QUESTIONS BY MR. SWARTZ:

25 Q. Anita, would you state your name for us,

1 please?

2 A. Anita Duty.

3 Q. Who do you work for?

4 A. CNX Land Resources.

5 Q. Okay. And with regard to...we have a  
6 number of requests for disbursement on the docket today,  
7 correct?

8 A. We do.

9 Q. And with regard to disbursements, what  
10 job responsibilities do you and the folks that work for  
11 you have?

12 A. We make sure the...we double check the  
13 deposit information with the bank information to see if  
14 we're close on the balance and prepare the disbursement  
15 petitions.

16 Q. Okay. And with regard to...and with  
17 regard to balances and so forth, we were here a couple  
18 of months ago and we had a discussion with the Board  
19 with regard to a question that I think Ms. Pigeon had  
20 raised concerning what number or numbers were you using  
21 and had there been a change of procedure. Do you recall  
22 that discussion?

23 A. Yes.

24 Q. And in the past, you had actually been  
25 able to obtain copies of the bank records from the bank

1 and compare those to your deposit records, correct?

2 A. Yes.

3 Q. And then at some point, you were  
4 instructed to simply use a number that was supplied to  
5 you by then DGO, correct?

6 A. Yes.

7 Q. And have you changed your methodology now  
8 since we were here a couple of months ago, again?

9 A. Yes.

10 Q. Okay. Tell the Board what information  
11 you now have access to and what you did with regard to  
12 these actual numerous disbursement requests that we have  
13 on the docket today?

14 A. Now, the escrow summaries are on the  
15 website like Mr. Cooper said he would do. There's still  
16 some that are out there that older because we have  
17 some...you know, some units that were set up in the  
18 '90s. So, we may still have a problem there, but most  
19 of the more recent ones we were able to compare deposits  
20 to deposits for them to make sure that they were posted  
21 to the proper account.

22 Q. Okay. And with regard to that  
23 comparison, do you have someone that works for you  
24 actually that obtain all records with regard to all of  
25 the deposits that the operator shows it made?

1           A.     Yes.

2           Q.     And then do you look at the online

3 records to review the deposits that the banks reported?

4           A.     Yes.

5           Q.     And do you compare those?

6           A.     We do.

7           Q.     Okay. For missing deposits, for example?

8           A.     Yes.

9           Q.     And in addition, do you then compare the

10 total that you believe that you deposited to the total

11 that the banks says it has on hand for each unit?

12          A.     Yes.

13          Q.     And in all instances today has that total

14 exceeded the amount that you've deposited?

15          A.     Yes.

16          Q.     Obviously, if it was less, there would be

17 kind of a red flag?

18          A.     It would.

19          Q.     Okay. And sometimes that happens.

20          A.     Yes.

21          Q.     But with regard to the disbursement

22 requests that we're going to be dealing with today, in

23 all instances when you made the comparison there was

24 actually slightly more money on deposit with the bank

25 than the total of the deposits that you made?



1           A.       There was.

2           Q.       And you would expect that because there  
3 has been income?

4           A.       Yes.

5           Q.       Okay. With regard to E-37, this is the  
6 one that I don't have a copy of so we sort of need to  
7 share the application, this is a petition that you filed  
8 to make a disbursement with regard to several tracts in  
9 unit EE-37, correct?

10          A.       Yes.

11          Q.       And what tracts is the disbursement is  
12 going to pertain to?

13          A.       Tracts 1C, 1D and 1E.

14          Q.       Okay. Is this disbursement a partial  
15 disbursement and will there be a need to maintain the  
16 account after these disbursements are made?

17          A.       There will.

18          Q.       Okay. And is...what is the reason for  
19 this disbursement request?

20          A.       A Court order.

21          Q.       Okay. And have you prepared an escrow  
22 calculation---?

23          A.       Yes.

24          Q.       ---for the Board and the escrow agent and  
25 is that the last page of your application?

1           A.       It is.

2           Q.       Okay.     And do we need to make any  
3 revisions to that or is that accurate?

4           A.       No, it's accurate.

5           Q.       And it shows that the wells that have  
6 produced revenue that's on deposit are which wells?

7           A.       EE-37 and EE-37A.

8           Q.       Okay.     And this...the Court decision  
9 determined that somebody owned the coalbed methane  
10 revenue 100%, correct?

11          A.       Yes.

12          Q.       And the intent of this disbursement would  
13 be to pay the people that won the Court case?

14          A.       It would.

15          Q.       Okay.     Who is to receive the  
16 disbursements that you're proposing from Tracts 1C, 1D  
17 and 1E and then also at the same time what percentages  
18 should the escrow agent use to make those disbursements?

19          A.       Okay.     For Tract 1C, it would Larry  
20 Absher and the percent of escrow would be 29.8607%. For  
21 Tract 1D, it's Joe Absher and the escrow percentage  
22 15.7574%. For Tract 1E, Jerry Absher 10.1567%.

23          Q.       And as...just so there's no mistake on  
24 the part of the escrow, they should use the percentages  
25 and not the dollars reported in the last column?

1           A.       That's correct.

2           Q.       And the total amount on deposit as of the  
3 date of comparison, 6/30/11, was what amount total?

4           A.       \$197,819.28.

5           Q.       And as of that date, if you use the  
6 percentages you would get the numbers that you have in  
7 the far right hand column, correct?

8           A.       You would.

9           Q.       Okay. Have you provided the Board with a  
10 revised Exhibit E pertaining to the money that needs to  
11 remain in escrow?

12          A.       Yes.       Just what's included in the  
13 order...application.

14          Q.       Okay. And there's obviously some unknown  
15 issue and a title issue, apparently.

16          A.       Yes.

17          Q.       And that money needs to stay on deposit?

18          A.       It does.

19          Q.       With regard to the folks that won the  
20 case and are receiving a disbursement here, is it your  
21 request that the Board allow you to pay them directly in  
22 the future?

23          A.       Yes.

24          MARK SWARTZ: That's all I have, Mr. Chairman.

25          BUTCH LAMBERT: Any questions from the Board?

1           MARY QUILLEN: Mr. Chairman, just one question  
2 for Anita. Are you all doing these deposits  
3 electronically now?  
4           ANITA DUTY: No.  
5           MARY QUILLEN: No. Okay. Are you planning to?  
6           ANITA DUTY: We're in the process of  
7 implementing new software and I think that's one of the  
8 things that's going to be coming soon. I think that's  
9 maybe next year.  
10          MARY QUILLEN: Okay. Thank you.  
11          BUTCH LAMBERT: Any other questions?  
12          (No audible response.)  
13          BUTCH LAMBERT: Anything further, Mr. Swartz?  
14          MARK SWARTZ: No.  
15          BUTCH LAMBERT: Do I have a motion?  
16          MARY QUILLEN: Motion to approve.  
17          BRUCE PRATHER: Second.  
18          BUTCH LAMBERT: A motion and a second. Any  
19 further discussion?  
20          (No audible response.)  
21          BUTCH LAMBERT: All in favor, signify by saying  
22 yes.  
23          (All members signify by saying yes, but Katie  
24 Dye.)  
25          BUTCH LAMBERT: Opposed, no.

1                    KATIE DYE: I'll abstain.

2                    BUTCH LAMBERT: One abstention Mrs. Dye.  
3 Calling docket item number three. The Board on its own  
4 motion will receive testimony...corrective testimony  
5 from CNX Gas Company, LLC on a petition approved for  
6 disbursement on May the 11th, docket number VGOB-02-  
7 0917-1072-01. All parties wishing to testify, please  
8 come forward.

9                    MARK SWARTZ: Mark Swartz and Anita Duty.

10

11                                    ANITA DUTY

12 having been duly sworn, was examined and testified as  
13 follows:

14                                    DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16                    Q. State your name for us, Anita.

17                    A. Anita Duty.

18                    Q. And what remained to be done here?

19                    A. We needed to let the Board know what  
20 portion of the account was working interest deposits.

21                    Q. Okay. And has the exhibit that  
22 you've...does the exhibit that you have just distributed  
23 to the Board answer that question?

24                    A. It does.

25                    Q. Okay. I take it we have to look at the

1 last page to get that answer.

2 A. Yes. I actually gave a copy of the  
3 detail to Rick Cooper.

4 Q. Okay.

5 A. It actually has the detail that came from  
6 our accounting department. I didn't know if you all  
7 cared about all of that.

8 BUTCH LAMBERT: Do you have it?

9 RICK COOPER: We got it. We do.

10 BUTCH LAMBERT: Okay.

11 Q. And to summarize what is shown on Exhibit  
12 A-1 the calculation of the working interest and the  
13 royalty deposits, what does that show?

14 A. The total balance in the account is  
15 \$53,067.32. According to our records, we have made  
16 working deposits of \$13,060.50, which is the difference  
17 of \$40,006.82---.

18 Q. And it looks like---?

19 A. ---of royalty interest.

20 Q. And it looks like the proposed  
21 disbursement here is the royalty interest and the  
22 working interest remains on deposit. Is that the intent  
23 of this?

24 A. It is.

25 Q. Okay. So, you've submitted the record

1 with regard to the portion of the amount of money on  
2 deposit that represents working interest and the portion  
3 that represents royalty interest to complete the record  
4 so the disbursement can be made?

5 A. Yes.

6 MARK SWARTZ: That's all I have, Mr. Chairman.

7 BUTCH LAMBERT: Any questions from the Board?

8 (No audible response.)

9 BUTCH LAMBERT: Anything further, Mr. Swartz?

10 MARK SWARTZ: No.

11 BUTCH LAMBERT: Do I have a motion?

12 MARY QUILLEN: Motion to approve.

13 BRUCE PRATHER: Second.

14 BUTCH LAMBERT: I have a motion and a second.

15 Any further discussion?

16 (No audible response.)

17 BUTCH LAMBERT: All in favor, signify by saying  
18 yes.

19 (All members signify by saying yes, but Katie  
20 Dye.)

21 BUTCH LAMBERT: Opposed, no.

22 KATIE DYE: I'll abstain.

23 BUTCH LAMBERT: One abstention Mrs. Dye.

24 Calling docket item number four. A petition from CNX  
25 Gas Company, LLC for disbursement of funds from escrow

1 for unit U-27, docket number VGOB-97-0218-0563-03. All  
2 parties wishing to testify, please come forward.

3 MARK SWARTZ: Mark Swartz. I think we might be  
4 able to put items four, five and six together. It looks  
5 like they're all the same folks.

6 BUTCH LAMBERT: So, we need to call five and six  
7 as well?

8 MARK SWARTZ: Correct. That would be great.

9 BUTCH LAMBERT: Okay. Also, calling a  
10 petition...docket item number five. A petition from CNX  
11 Gas Company, LLC for disbursement of funds from escrow  
12 for unit U-28, docket number VGOB-97-0218-0564-02.  
13 Calling petition...docket item number six. A petition  
14 from CNX Gas Company, LLC for disbursement of funds from  
15 escrow for unit T-28, docket number VGOB-97-0218-0565-  
16 02. You may proceed, Mr. Swartz.

17 MARK SWARTZ: Thank you, Mr. Chairman.

18

19 ANITA DUTY

20 having been duly sworn, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS By MR. SWARTZ:

24 Q. Anita, I'm going to ask the Chairman to  
25 incorporate your testimony from the discussion that we



1 previously had this morning about what procedures you  
2 have been following now that there's data online---?

3 BUTCH LAMBERT: Accepted.

4 MARK SWARTZ: Thank you.

5 Q. ---and was that procedure followed in  
6 these three cases? And these...all three of these  
7 matters were filed in February, correct?

8 A. Yes.

9 Q. And they've been continued several times  
10 to get us to today, is that right?

11 A. It has.

12 Q. And what was the reason that they were  
13 continued?

14 A. There was an overpayment on the original  
15 disbursement petition. I think the process to recoup  
16 the money...to ask for the owners that were overpaid to  
17 refund the money back to the account, I think Rick  
18 finally finalized that. Now, all of the money is back.  
19 So, we can proceed with the second disbursement.

20 Q. So, it's where it belongs now?

21 A. Yes.

22 Q. Okay. And have you provided the Board  
23 with three slightly revised Exhibit A-1s, one for each  
24 of these three units?

25 A. Yes.

1 Q. And what number, if any, has changed on  
2 these exhibits since they were filed in February really?

3 A. Just the balance in the accounts and we  
4 checked to make sure that we agreed that what was  
5 refunded was actually deposited? We just double checked  
6 that ourselves.

7 Q. Okay. So, the only issue...it wasn't the  
8 percentages that the people that the people were going  
9 to share in it was...or their interest in the  
10 unit...their acreage interest in unit, you had to  
11 account for the recoupment and the balance changed as a  
12 result?

13 A. Yes.

14 Q. Let's start with docket number four,  
15 which is U-27. It looks like you have provided the  
16 Board with a revised exhibit this morning on U-27 and  
17 you have...you're showing an account balance as of what  
18 date?

19 A. October the 31st, 2011.

20 Q. Obviously, you've updated that since what  
21 you've provided...since...after what you've provided in  
22 February?

23 A. Yes.

24 Q. And the balance...do the owners from that  
25 the disbursement is proposed to be made to from U-27 is

1 what total amount?

2 A. The total on the account is \$596.03.

3 Q. Okay. And would you please for the  
4 record list the folks that are to receive the  
5 disbursements and then for each person or company the  
6 percentage that the escrow agent should use to make the  
7 disbursement?

8 A. Okay. For

9 A. Yes. Okay, for Unicon Pocahontas they  
10 should use 2.1848%, Buchanan Coal Company 0.4855%,  
11 Sawyers Pocahontas Coal Company 0.2428%, Plum Creek  
12 Timberlands 1.4565%, Carol (inaudible) 0.7283%, Barbara  
13 Maxwell 0.7283% and Bill Chambers 2.9131%.

14 Q. After those disbursements are made is  
15 this account...can this account be closed?

16 A. No.

17 Q. Okay. So, it needs to be maintained,  
18 there will still be money in there?

19 A. Yes.

20 Q. Okay. And just to compare, when you  
21 reported the account balance as of 11/30/2010, what  
22 amount were showing due to these owners?

23 A. It was \$301.19.

24 Q. So, it has roughly doubled?

25 A. Yes.

1 Q. And the reason for this disbursement is  
2 what?  
3 A. For royalty agreements.  
4 Q. That's a royalty split agreement?  
5 A. Yes.  
6 Q. Have you actually seen the agreement?  
7 A. I have.  
8 Q. Does the same agreement apply to all  
9 three of these applications?  
10 A. It does.  
11 Q. And does it...how does it provide that  
12 the royalty is to be split?  
13 A. 50/50.  
14 MARK SWARTZ: That's all I have with regard to  
15 U-27.  
16 BUTCH LAMBERT: Any questions from the Board on  
17 U-27?  
18 (No audible response.)  
19 BUTCH LAMBERT: You may continue, Mr. Swartz.  
20 Q. Okay. With regard to the next item,  
21 which is U-28, let's turn to the updated A-1. What  
22 amount are you showing due the owners on...with regard  
23 to U-28?  
24 A. The balance in the account is \$37,800.66.  
25 Q. Okay. On October the 20th of 2010, what

1 was it?

2 A. \$26,358.35.

3 Q. Okay. And after the disbursements that  
4 are contemplated by Exhibit A-1 from unit U-28 are made,  
5 will the account need to be maintained?

6 A. It will.

7 Q. Okay. With regard to the proposed  
8 disbursement for U-28, could you list the claimants that  
9 have entered into split agreements that are to receive  
10 the disbursement and for each claimant the percentage  
11 that the escrow agent should use?

12 A. For Unicon Pocahontas they should use  
13 1.3355%, Buchanan Coal Company 0.2968%, Sawyers  
14 Pocahontas 0.1484%, Plum Creek Timberland 0.8903%, Carol  
15 (inaudible) 0.4452%, Barbara Maxwell 0.4452% and Bill  
16 Chambers 1.7807%.

17 Q. And in all three of these instances are  
18 you requesting that once these disbursements...in the  
19 event this disbursement is approved that the operator be  
20 allowed to pay the parties to the split agreements  
21 directly rather than escrowing their funds?

22 A. Yes.

23 MARK SWARTZ: Okay. That's all I have with  
24 regard to U-28, Mr. Chairman.

25 BUTCH LAMBERT: Any questions from the Board on

1 U-28?

2 MARY QUILLEN: Mr. Chairman, just one  
3 clarification. This was a 50/50 split, correct?

4 ANITA DUTY: It was.

5 MARY QUILLEN: That's all I have.

6 Q. Are all...are all three of these...the  
7 two U units and the T-28 unit, are they the same split  
8 agreement?

9 A. Yes.

10 Q. The same 50/50 split agreement?

11 A. Yes.

12 Q. Okay.

13 BUTCH LAMBERT: Any further questions?

14 (No audible response.)

15 BUTCH LAMBERT: You may continue, Mr. Swartz.

16 MARK SWARTZ: Thank you.

17 Q. Turning now to the last of these three  
18 units that were continued from February, Anita, T-28,  
19 have you compared an updated Exhibit A-1?

20 A. Yes.

21 Q. And the amount due owners as of 10/31/11  
22 was...is what amount?

23 A. The balance in the account is \$19,587.37.

24 Q. Okay. And the balance in the account as  
25 of November the 30th of 2010 was what amount?

1 A. \$9,804.29.

2 Q. Okay. And at least to some extent is the  
3 increase as a result of the recoupment?

4 A. It is.

5 Q. Okay. The...have you listed the folks  
6 that are to receive disbursements from Tract 5 out of  
7 the escrow account for T-28 on your revised Exhibit A-1?

8 A. Yes.

9 Q. Could you identify them by name and then  
10 for each name give the percentage that the escrow agent  
11 should use when making the disbursement?

12 A. For Unicon Pocahontas Coal Company  
13 2.2059%, Buchanan Coal Company 0.4902%, Sawyers  
14 Pocahontas Coal Company 0.2451, Plum Creek Timberlands  
15 1.4706%, for Carol (inaudible) 0.7353%, Barbara Maxwell  
16 0.7353% and Bill Chambers 2.9412%.

17 Q. And after those disbursements are made by  
18 the escrow agent, are you requesting that the operator  
19 be allowed to pay these folks directly?

20 A. Yes.

21 Q. And, obviously, this account is going to  
22 need to continue after the disbursements?

23 A. It will.

24 MARK SWARTZ: That's all I have with regard to  
25 T-28, Mr. Chairman.

1           BUTCH LAMBERT: Any questions from the Board on  
2 unit T-28, docket item number six?

3           MARY QUILLEN: Just one question, Mr. Chairman.  
4 The date, the account balance, the one...the revised has  
5 the date of 10/31/11 and the one that was in the packet  
6 had the date of 11/30/10. Now, is this 10/31 or did you  
7 say 11/30?

8           ANITA DUTY: No, this is...this is 10/31.

9           MARY QUILLEN: Okay.

10          ANITA DUTY: The other one that you're referring  
11 to was the old one.

12          MARY QUILLEN: The old one. Okay, okay. I just  
13 wanted to be sure that it was 10/31 on that one. Thank  
14 you.

15          BUTCH LAMBERT: Anything further, Mr. Swartz, on  
16 those three docket items?

17          MARK SWARTZ: No, Mr. Chairman.

18          BUTCH LAMBERT: Do I have a motion from the  
19 Board on docket items four, five and six?

20          MARY QUILLEN: Motion to approve.

21          BRUCE PRATHER: Second.

22          BUTCH LAMBERT: I have a motion and a second.  
23 Any further discussion?

24                 (No audible response.)

25          BUTCH LAMBERT: All in favor, signify by saying



1 yes.

2 (All members signify by saying yes, but Katie  
3 Dye.)

4 BUTCH LAMBERT: Opposed, no.

5 KATIE DYE: I'll abstain.

6 BUTCH LAMBERT: One abstention Mrs. Dye. We're  
7 calling docket item number seven. The Board on its own  
8 motion will receive corrective testimony from CNX Gas  
9 Company, LLC on a petition to approved for disbursement  
10 in August of 2011, unit AY-119, docket number VGOB-03-  
11 0513-1149-02. All parties wishing to testify, please  
12 come forward.

13 MARK SWARTZ: Mark Swartz and Anita Duty.

14 BUTCH LAMBERT: You may proceed, Mr. Swartz.

15

16 ANITA DUTY

17 having been duly sworn, was examined and testified as  
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. Anita, state your name for the record,  
22 please.

23 A. Anita Duty.

24 Q. We're back here on a petition that the  
25 Board initiated, correct?

1 A. Yes.

2 Q. And you know why you're here, right?

3 A. Yes.

4 Q. Okay. You're here to provide them with a  
5 revised Exhibit E?

6 A. Yes.

7 Q. And a slightly revised Exhibit A-1?

8 A. Yes.

9 Q. And the reason these exhibits...these  
10 items to be revised is what?

11 A. The interest for Ella Cook and Ralph  
12 Reedy we found that was incorrect and we needed to fix  
13 that. Also, Earl Reedy was removed.

14 Q. Okay. And does the revised Exhibit E  
15 revised as of August of 2011 and the revised Exhibit A-1  
16 revised as of August the 5th, 2011, do those two  
17 exhibits reflect the required changes?

18 A. Yes.

19 MARK SWARTZ: That's all I have, Mr. Chairman.

20 BUTCH LAMBERT: Any questions from the Board?

21 (No audible response.)

22 BUTCH LAMBERT: Anything further, Mr. Swartz?

23 MARK SWARTZ: Yeah.

24 Q. Anita, in entering the order though, did  
25 the percentages change slightly on A-1 so---?

1           A.       They did.

2           Q.       ---the order needs to reflect those  
3 changes?

4           SHARON PIGEON: Why don't you go ahead and have  
5 her put those on the record?

6           Q.       Let's put in the revised percentages from  
7 A-1 then. Give me the names of the folks and the  
8 percentage that the escrow agent should us.

9           A.       Okay. For Swords Creek Land Partnership,  
10 they should use 0.0941%, Ella Ruth Cook 0.0217%, Ralph  
11 Reedy 0.0217%, Beulah Brown 0.0145%, Roger Brown  
12 0.0097%, Danny Brown 0.0097%, Angela Bane 0.0097% and  
13 Sandra Hess 0.0072%.

14          MARK SWARTZ: That's all I have.

15          BUTCH LAMBERT: Any further questions from the  
16 Board?

17                (No audible response.)

18          BUTCH LAMBERT: Do I have a motion?

19          BILL HARRIS: Motion for approval.

20          BRUCE PRATHER: Second.

21          BUTCH LAMBERT: A motion and a second. Any  
22 further discussion?

23                (No audible response.)

24          BUTCH LAMBERT: All in favor, signify by saying  
25 yes.

1 (All members signify by saying yes, but Katie  
2 Dye.)  
3 BUTCH LAMBERT: Opposed, no.  
4 KATIE DYE: I'll abstain.  
5 BUTCH LAMBERT: One abstention Mrs. Dye.  
6 Calling docket item number eight, a petition from CNX  
7 Gas Company, LLC for disbursement of funds from Tracts  
8 2H, 3A, 3B and 3C in unit T-36. This is docket number  
9 VGOB-98-0324-0625-10. All parties wishing to testify,  
10 please come forward.  
11 MARK SWARTZ: Mark Swartz and Anita Duty.  
12 MARTHA GWILLIAMS: Martha Gwilliams, heir to the  
13 Linkous Horn Estate.  
14 SYDNEY SMITH: Sydney Smith, the Linkous Horn  
15 Estate.  
16 (Martha Gwilliams and Sydney Smith are duly  
17 sworn.)  
18 BUTCH LAMBERT: You may proceed, Mr. Swartz.  
19  
20 ANITA DUTY  
21 having been duly sworn, was examined and testified as  
22 follows:  
23 DIRECT EXAMINATION  
24 QUESTIONS BY MR. SWARTZ:  
25 Q. Anita, did you...are you requesting that

1 the Board make a disbursement with regard to the escrow  
2 account for T-36?

3 A. Yes.

4 Q. From what tracts?

5 A. Tracts 2H, 2A and 3B and 3C combined.

6 Q. And at the present time, where are the  
7 royalties coming from that are being paid into the  
8 escrow account?

9 A. Now, it's in the Buchanan Sealed Gob  
10 SGU2.

11 Q. So, this escrow account is not currently  
12 receiving funds?

13 A. Correct.

14 Q. And funds pertaining to production from  
15 T-36 are currently going into that unit?

16 A. It is.

17 Q. Okay. If this disbursement is made, I'm  
18 looking at both the original and the revised Exhibit A-  
19 1, it looks like the account is going to be maintained  
20 because of the substantial moneys still on deposit, is  
21 that correct?

22 A. It will.

23 Q. Okay. And you've given the Board this  
24 morning some revised exhibits, correct?

25 A. Yes.

1 Q. Let's start at the very last page, which  
2 is the revised Exhibit A-1, okay.

3 A. Okay.

4 Q. Why was that revised?

5 A. For Tracts 3A, 3B and 3C we had a deed of  
6 gift from Wesley Perkins to Tanya Hess for half of the  
7 royalty interest. We had originally taken her out  
8 because she did not inherit it from her father  
9 originally. They're actually half siblings or just may  
10 be adopted. I can't remember exactly the deal. But he  
11 did sign a deed of gift giving her half of the  
12 royalties. So, now we've put her back in and gave...you  
13 know, given her half of that interest.

14 Q. Okay. And is that the reason that you  
15 had to modify Exhibit EE?

16 A. Yes.

17 Q. So, the reason that caused you since  
18 filing this to modify Exhibit A-1 is the same reason  
19 that you had to modify Exhibit EE?

20 A. Yes.

21 Q. Okay. And this request for a  
22 disbursement that you're making from unit...the escrow  
23 account for unit T-36 is for what reason?

24 A. Royalty agreements.

25 Q. Okay. Have you actually seen that

1 agreement?

2 A. I have.

3 Q. And what does it provide in terms of the  
4 split?

5 A. 50/50.

6 Q. Okay. And with regard to that then and  
7 the folks that you're seeking a disbursement for, have  
8 you implemented that 50/50 split in the revised Exhibit  
9 A-1 calculation?

10 A. Yes.

11 MARK SWARTZ: Okay. And I'd like to incorporate  
12 Anita's testimony from the first hearing today with  
13 regard to what she and her staff have done to verify  
14 balances and deposits.

15 BUTCH LAMBERT: Accepted.

16 MARK SWARTZ: Thank you.

17 Q. And with regard to this unit then, who  
18 are you proposing receive the disbursements and with  
19 regard to each person receiving a disbursement could you  
20 please report the percentage that the escrow agent  
21 should us?

22 A. Okay. For Tract 2H, Hurt McGuire Land  
23 Trust should receive 1.0264% and Rodney Taylor should  
24 also receive 1.0264%. For Tract 3A, Hurt McGuire Land  
25 Trust should receive a total of 2.9487% and Wesley

1 Perkins should receive 1.4743% and Tanya Hess should  
2 also receive 1.4743%. Tracts 3B and 3C, Hurt McGuire  
3 Land Trust should receive a total of 0.2706%, Wesley  
4 Perkins should receive 0.1353% and Tanya Hess should  
5 also receive 0.1353% of the escrow.

6 Q. And with regard to these folks, are you  
7 asking that if the Board approves this disbursement that  
8 the operator be allowed to pay these people directly  
9 consistent with the terms of their split agreement?

10 A. Yes.

11 Q. Do we have a payment that we need to  
12 await for that to occur before we can make this payment?

13 A. Yes. There was a previously disbursement  
14 approved in April that has not been completed yet.

15 Q. Okay. So, that needs to...the escrow  
16 agent needs to make that disbursement before these  
17 disbursements so that the math is right?

18 A. Yes.

19 MARK SWARTZ: Okay. That's all I have, Mr.  
20 Chairman.

21 SHARON PIGEON: We have two wells  
22 contributing...we have two wells contributing to this,  
23 correct?

24 MARK SWARTZ: Yes. I think so. I just gave  
25 away my exhibit.



1                   ANITA DUTY: T-36 and T-36A.  
2                   SHARON PIGEON: Thank you.  
3                   BUTCH LAMBERT: Any other questions from the  
4 Board?  
5                   (No audible response.)  
6                   BUTCH LAMBERT: Ms. Duty, you may have testified  
7 to this, as of what date did you compare your deposits  
8 with what is on deposit in the escrow?  
9                   ANITA DUTY: This was as of August, 2011.  
10                  BUTCH LAMBERT: Thank you. Any other questions  
11 from the Board?  
12                  (No audible response.)  
13                  BUTCH LAMBERT: Ms. Gwilliams, I'll begin with  
14 you.  
15                  MARTHA GWILLIAMS: We would just like to object  
16 to the disbursement of the money for...or to any money  
17 being taken out of the account because we've had  
18 discrepancies before and this one hasn't been completed  
19 from back from April. Plus there's only two accounts  
20 that he's receiving from. There's several more. So,  
21 I'm just making an objection. It's very hard for me to  
22 talk. I'm sorry.  
23                  BUTCH LAMBERT: Okay. Mr. Smith?  
24                  SYDNEY SMITH: Well, I'm with her on objecting  
25 to them getting their moneys because you've got a lot

1 more wells involved and they're only getting money from  
2 two of them. Most of the other people have already got  
3 all of their money if I understand it right except for  
4 the people that have the dispute over the money.

5 BUTCH LAMBERT: Any questions from the Board for  
6 Ms. Gwilliams or Mr. Smith?

7 BRUCE PRATHER: I've got a question. Wouldn't  
8 these properties already be in escrow? Wouldn't the  
9 money from...if you have a conflict, wouldn't that be in  
10 escrow?

11 MARK SWARTZ: Correct.

12 BRUCE PRATHER: Okay. So, what you're doing  
13 today is not in anyway conflicting with the money that's  
14 in escrow?

15 MARK SWARTZ: We're not disbursing their funds  
16 if they have any.

17 BRUCE PRATHER: Okay.

18 MARK SWARTZ: Correct.

19 BRUCE PRATHER: Okay.

20 ANITA DUTY: And Mr. Perkins just recently  
21 signed his agreement. So, he didn't get paid out at the  
22 same time as some of the other heirs did. So, it's just  
23 the matter of when...you know, the timing of when they  
24 signed the agreements.

25 BUTCH LAMBERT: And these is a 50/50 split

1 agreement?

2 ANITA DUTY: it is.

3 BUTCH LAMBERT: And you have seen that

4 agreement?

5 ANITA DUTY: I have.

6 BUTCH LAMBERT: And also, Ms. Duty, you talked

7 about Ms. Hess now being given half of that escrow.

8 ANITA DUTY: Yes.

9 BUTCH LAMBERT: Have you seen that agreement as

10 well?

11 ANITA DUTY: Yeah. I actually have it here---.

12 BUTCH LAMBERT: Okay. Thank you.

13 ANITA DUTY: ---if you want a copy.

14 BUTCH LAMBERT: Just (inaudible). Any further

15 questions from the Board?

16 (No audible response.)

17 SYDNEY SMITH: Can I ask one?

18 BUTCH LAMBERT: Yes, sir.

19 SYDNEY SMITH: What...I didn't quite understand

20 the Tanya is in and then Tanya is out...out or in

21 because of a Will she wasn't supposed to get anything.

22 BUTCH LAMBERT: Ms. Duty, could you explain that

23 for Mr. Smith?

24 ANITA DUTY: I don't know how long ago it had

25 been. I know it has at least been six months or so.

1 When we originally filed this, we believed that Tanya  
2 Hess was an heir of...I'm trying to think what the  
3 original heir---.

4 SYDNEY SMITH: Ernest.

5 MARTHA GWILLIAMS: Ernest (inaudible) was his  
6 name.

7 ANITA DUTY: Yes. One of his children. Then we  
8 find out that there was actually a Will that was given  
9 to us actually by one of the other heirs. We did not  
10 realize that there was a Will from him from Balford  
11 Perkins. So, once we had that Will it specifically gave  
12 all the property to Wesley Perkins rather than following  
13 an intestate law. So, that took her out. And then once  
14 Wesley found out that we were going to remove Tanya he  
15 wanted to give...still give her half of the royalty.  
16 So, he signed that deed of gift to bring her back in.  
17 So, we originally had her in and we took her out. Now,  
18 we're putting her back.

19 BUTCH LAMBERT: Based upon this deed of gift?

20 ANITA DUTY: The new deed of gift, yes.

21 BUTCH LAMBERT: Does that help, Mr. Smith?

22 SYDNEY SMITH: Yes, sir.

23 BUTCH LAMBERT: Anything further, Mr. Swartz?

24 MARK SWARTZ: No.

25 BUTCH LAMBERT: Do I have a motion?

1                   MARY QUILLEN: Motion to approve.  
2                   BRUCE PRATHER: Second.  
3                   BUTCH LAMBERT: I have a motion and a second.  
4 Any further discussion?  
5                   (No audible response.)  
6                   BUTCH LAMBERT: All in favor, signify by saying  
7 yes.  
8                   (All members signify by saying yes, but Katie  
9 Dye.)  
10                  BUTCH LAMBERT: Opposed, no.  
11                  KATIE DYE: I will abstain.  
12                  BUTCH LAMBERT: One abstention Mrs. Dye.  
13                  CATHERINE JEWELL: Mr. Chairman, could they  
14 speak up? I mean, I'm having trouble hearing any of  
15 them. I'm sure people are having trouble hearing way  
16 back there.  
17                  RICK COOPER: We can move the mics a little  
18 closer.  
19                  CATHERINE JEWELL: Thank you.  
20                  BUTCH LAMBERT: We're calling docket item number  
21 nine. A petition from CNX Gas Company, LLC for  
22 disbursement of funds from Tracts 1A and 1D for unit  
23 T-37. This is docket number VGOB-98-0421-0650-06. All  
24 parties wishing to testify, please come forward.  
25                  MARK SWARTZ: Mark Swartz and Anita Duty.

1                    BUTCH LAMBERT: You may proceed, Mr. Swartz.

2

3

4

5

6

7

8

ANITA DUTY

9                    having been duly sworn, was examined and testified as  
10                   follows:

11

DIRECT EXAMINATION

12                   QUESTIONS BY MR. SWARTZ:

13                   Q.        Anita, you need to state your name for  
14                   us, please.

15                   A.        Anita Duty.

16                   Q.        And is this precisely the same situation  
17                   that we saw in the last docket item?

18                   A.        It is.

19                   Q.        And have you presented the Board with a  
20                   revised Exhibit EE and a revised Exhibit A-1?

21                   A.        Yes.

22                   Q.        And it sort of tracts the changes that  
23                   you needed to make because of the deed of gift from  
24                   Wesley to Tanya, correct?

25                   A.        Yes, it did.

1           Q.     Okay.     This is a disbursement request  
2 regarding the escrow account maintained for T-37, is  
3 that correct?  
4           A.     Yes.  
5           Q.     What tracts does it pertain to?  
6           A.     Tracts 1A and 1D.  
7           Q.     Is it a partial disbursement?  
8           A.     It is.  
9           Q.     And currently there are no royalties  
10 being paid under the original well I take it?  
11          A.     There isn't.  
12          Q.     And where are the royalties being paid at  
13 this point into what account?  
14          A.     The Buchanan 1, SGU2.  
15          Q.     Okay.   This disbursement request is based  
16 on what facts?  
17          A.     50/50 royalty split agreement.  
18          Q.     Okay.   And have you actually seen that  
19 agreement?  
20          A.     Yes.  
21          Q.     Is it the same one that you testified to  
22 earlier with regard to the prior docket item?  
23          A.     It is.  
24          Q.     Okay.   And the deed of trust would be the  
25 same as well?

1 A. Yes.

2 Q. Okay. And this unit T-37 is it...if we  
3 look your revised Exhibit A-1, do we need to await a  
4 previously approved disbursement before the escrow agent  
5 makes this one?

6 A. Yes.

7 Q. Okay. Who would receive the proposed  
8 disbursement out of the escrow account for T-37?

9 A. For Tract 1A, Hurt McGuire Land Trust  
10 should receive 2.4303%, Wesley Perkins 1.2151% and Tanya  
11 Hess 1.2151%. For Tract 1B, Hurt McGuire Land Trust  
12 should receive 8.1009% and Rodney Taylor should also  
13 receive 8.1009%.

14 Q. And the only well contributing to this  
15 account when it was receiving royalties was what?

16 A. T-37.

17 Q. And are requesting...well, it doesn't  
18 really matter because there's no new money going in,  
19 right?

20 A. Right.

21 Q. It's going to close their interest out  
22 even though it doesn't close the account out?

23 A. Correct.

24 Q. Okay. And you have provided the Board  
25 again with...now, with regard to T-37 an Exhibit EE that



1 reflects the changes that needed to be made as a result  
2 of a deed of gift that we've talked about?

3 A. Yes.

4 Q. And your Exhibit A-1 is as of what date?

5 A. August the 31st, 2011.

6 Q. And that reflects the changes required by  
7 the deed of trust as well?

8 A. Yes. Deed of gift.

9 Q. Or deed of gift, I'm sorry.

10 A. Yes.

11 MARK SWARTZ: That's all I have, Mr. Chairman.

12 BUTCH LAMBERT: Any questions from the Board?

13 (No audible response.)

14 BUTCH LAMBERT: Ms. Gwilliams?

15 MARTHA GWILLIAMS: Mr. Chairman, I'm objecting  
16 to the disbursement of the money from the escrow. May I  
17 ask Mr. Swartz a question?

18 BUTCH LAMBERT: You can ask me and then I'll  
19 relay that to Mr. Swartz.

20 MARTHA GWILLIAMS: Okay.

21 MARK SWARTZ: Although, actually we kind of do  
22 okay together.

23 BUTCH LAMBERT: Okay. That's all right.

24 MARK SWARTZ: So, it might be all right.

25 MARTHA GWILLIAMS: We're almost friends.

1 Remember? I don't want to get close to you.

2 MARK SWARTZ: I can understand that.

3 MARTHA GWILLIAMS: I wouldn't wish this...I

4 wouldn't wish this on my enemy.

5 SHARON PIGEON: So, many women have said that.

6 (Laughs.)

7 MARTHA GWILLIAMS: You're saying...you asked Ms.

8 Duty is this will close out this account completely.

9 MARK SWARTZ: I asked her that, yes.

10 MARTHA GWILLIAMS: Okay. I need you to explain.

11 I don't understand. What is going to happen to the

12 other people that---?

13 MARK SWARTZ: Right. If you look at the last

14 page of...actually, let me have...lend back the one that

15 I had. Okay, if you look at the last page of what we

16 just gave you, okay, you'll see that it has an account

17 balance...right up here at the very top in the center

18 this is an account balance as of August the 31st of

19 2011. Right there is the date, okay. That's as of this

20 date up here, okay.

21 MARTHA GWILLIAMS: Okay.

22 MARK SWARTZ: And then if you look here, this

23 little bitty number here by my finger, that's the

24 balance as of August the 31st. It's \$40,595.97. Okay.

25 Now, if you look at the numbers underneath that, these

1 numbers, they don't add up to anything close to \$40,000,  
2 okay. So, when those estimates come out of this  
3 account, they're still going to be a substantial amount  
4 of money on deposit for people who have not signed split  
5 agreements and have claims. Does that make sense?

6 MARTHA GWILLIAMS: Well, I just heard you say  
7 that it would close the account out.

8 MARK SWARTZ: No, no. It closes the account out  
9 for these people because there's no new money for them  
10 going into this account.

11 MARTHA GWILLIAMS: Okay. I understand.

12 MARK SWARTZ: Okay. And I can...and just to  
13 make sure you understand what I'm saying there, when you  
14 look at the application, originally I'm assuming this  
15 was a frac well, okay.

16 MARTHA GWILLIAMS: Right.

17 MARK SWARTZ: Then it got included in a sealed  
18 gob unit. So, when it went from being a frac well to  
19 part of a sealed gob unit money stopped going into this  
20 escrow account. There's another escrow account for  
21 (inaudible). But you can see it refers to a sealed gob  
22 unit, okay.

23 MARTHA GWILLIAMS: Okay.

24 MARK SWARTZ: So, when this disbursement is made  
25 to these people from this account. There is no new

1 money going into this account. So, as far as they're  
2 concerned they got their money. They're not getting any  
3 payments in the future from T-37.

4 MARTHA GWILLIAMS: Okay.

5 MARK SWARTZ: But it doesn't close the account,  
6 which is...you know, it looks like it's going to be  
7 thirty some thousand dollars for the other people  
8 because that money needs to be held.

9 MARTHA GWILLIAMS: I need to make sure my---.

10 MARK SWARTZ: Does that makes sense though?

11 MARTHA GWILLIAMS: These people will be closed  
12 out completely. Anyone who has not signed an  
13 agreement---.

14 MARK SWARTZ: They're still in there.

15 MARTHA GWILLIAMS: Okay. Thank you.

16 MARK SWARTZ: Okay.

17 SYDNEY SMITH: I thought you said A and B. I  
18 only saw A. Did I miss B somewhere?

19 SHARON PIGEON: A and D.

20 SYDNEY SMITH: A and D or A and B?

21 BUTCH LAMBERT: A and D.

22 MARK SWARTZ: D as in dog, I think, correct?

23 BUTCH LAMBERT: Yes. That's what's listed in  
24 the---.

25 SHARON PIGEON: It's on this sheet on the plat.

1                   SYDNEY SMITH: Okay. I've got one more  
2 question.  
3                   BUTCH LAMBERT: Okay.  
4                   SYDNEY SMITH: Okay. Since all of this is going  
5 into a gob well, how do we find out exactly how much  
6 we've got coming to us, because we haven't been able to  
7 do that yet?  
8                   MARK SWARTZ: Well, if you look at the pooling  
9 orders for that...okay, if you look at the pooling  
10 orders for this gob unit, okay, and it has got a docket  
11 number there, okay---.  
12                   SYDNEY SMITH: Right.  
13                   MARK SWARTZ: ---that would have you percentages  
14 in that unit as part of one of the exhibits.  
15                   SYDNEY SMITH: Right.  
16                   MARK SWARTZ: And then I assume you've got  
17 balance information online.  
18                   SYDNEY SMITH: Well, now we have put in for it,  
19 but we've never been able to get it.  
20                   MARK SWARTZ: Well, I think just get on there.  
21 I think you should be able to just get on the computer  
22 and see it.  
23                   SYDNEY SMITH: Well, we have tried, but we  
24 can't...can you show that to us today?  
25                   RICK COOPER: I can. You can...after the

1 meeting, you can come to the office or call, whatever is  
2 convenient to you and I can show you.

3 SYDNEY SMITH: Okay. Thank you.

4 MARTHA GWILLIAMS: It keeps saying something  
5 about closed. We can't...we can't get it---.

6 SYDNEY SMITH: We just can't get the figures to  
7 come up. We can get them individually, but when it  
8 comes to the SGU2, we can't.

9 BUTCH LAMBERT: Yes. Mr. Smith, if you will  
10 make an appointment to go by our DGO office, it's at the  
11 end of this hall at the end of this building, we'll be  
12 happy to sit down with you and show you how to use that  
13 system.

14 SYDNEY SMITH: Okay. Well, I know how to use  
15 the system. I just can't get the SGU2 to come up. It  
16 don't---.

17 BUTCH LAMBERT: Yeah, we'll work with you.

18 SYDNEY SMITH: Okay.

19 BUTCH LAMBERT: If you'll make an appointment  
20 just to come by, we'll work with you to help you do  
21 that.

22 SYDNEY SMITH: Okay. We'll do that.

23 MARK SWARTZ: Actually, this one is...actually  
24 sealed gob unit 3, this one.

25 SYDNEY SMITH: Okay.

1                   MARK SWARTZ: I'm not saying there isn't a 2.  
2 But this one is 3.  
3                   SYDNEY SMITH: Okay. Oh, I know there is a 2,  
4 yeah.  
5                   MARK SWARTZ: Okay.  
6                   SYDNEY SMITH: SGU2.  
7                   ANITA DUTY: Wait a minute. You're looking at  
8 one later. This is later.  
9                   SYDNEY SMITH: Buch 1 I think is what they call  
10 it.  
11                   ANITA DUTY: This isn't the right one.  
12                   MARK SWARTZ: Okay. Hold on.  
13                   ANITA DUTY: You were right.  
14                   MARK SWARTZ: Anita is straightening me out  
15 here. It's 2. This one is 2. I'm sorry, I was looking  
16 at the next one. Okay.  
17                   BUTCH LAMBERT: Anything further, Mr. Swartz?  
18                   MARK SWARTZ: No.  
19                   BUTCH LAMBERT: Any questions from the Board?  
20 (No audible response.)  
21                   BUTCH LAMBERT: Do I have a motion?  
22                   MARY QUILLEN: Motion to approve.  
23                   BRUCE PRATHER: Second.  
24                   BUTCH LAMBERT: I have a motion and a second.  
25 Any further discussion?

1 (No audible response.)  
2 BUTCH LAMBERT: All in favor, signify by saying  
3 yes.  
4 (All members signify by saying yes, but Katie  
5 Dye.)  
6 BUTCH LAMBERT: Opposed, no.  
7 KATIE DYE: I'll abstain.  
8 BUTCH LAMBERT: One abstention Mrs. Dye. Mr.  
9 Smith, when we take a break here in just a few minutes,  
10 if you'll see Mr. Cooper or Mr. Lovette they will give  
11 you information or set to go down and do that.  
12 SYDNEY SMITH: Okay. Can we do it today?  
13 BUTCH LAMBERT: Probably not. These hearings  
14 are going to last all day and they won't be available.  
15 SYDNEY SMITH: Are they? Okay.  
16 BUTCH LAMBERT: But I'm sure they will be happy  
17 to give you a date to come by and do that.  
18 SYDNEY SMITH: Okay. We'll do it. Thank you  
19 all.  
20 BUTCH LAMBERT: Thank you.  
21 MARTHA GWILLIAMS: Thank you, Mr. Chairman and  
22 the Board. Thank you.  
23 BUTCH LAMBERT: We're calling docket item number  
24 ten. A petition from CNX Gas Company, LLC for  
25 disbursement of funds from Tracts 2A for unit Z-12,



1 docket number VGOB-91-0521-0126-01. All parties wishing  
2 to testify, please come forward.

3 MARK SWARTZ: Mark Swartz and Anita Duty.

4 TOM PRUITT: Tom Pruitt representing Harrison-  
5 Wyatt.

6 BUTCH LAMBERT: Good morning, Mr. Pruitt.

7 TOM PRUITT: Good morning.

8 BUTCH LAMBERT: You may proceed, Mr. Swartz.

9

10

11 ANITA DUTY

12 having been duly sworn, was examined and testified as  
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Anita, you need to state your name for  
17 us, please.

18 A. Anita Duty.

19 Q. Okay. With regard to this disbursement  
20 why did you file this petition?

21 A. Upon the request of Mr. Pruitt.

22 Q. Okay. And his request was based...he  
23 made a request in writing to you, I assume, right?

24 A. Yes. Yes.

25 Q. And his request was based on a dismissal

1 order in a case that was filed back in 1990, right?

2 A. Yes.

3 Q. And it was between a number of people but  
4 the generalized caption of the case was James C. Street,  
5 et al, there were a number of plaintiffs, versus Oxy  
6 USA, right?

7 A. Yes.

8 Q. Okay. That order that Mr. Pruitt  
9 provided you with actually dismissed that case?

10 A. It did.

11 Q. And did Mr. Pruitt send you a letter sort  
12 of explaining to you the effect of a non-suit?

13 A. Yes.

14 Q. And he indicated that you needed...the  
15 people who received the non-suit had six months to  
16 refile, correct?

17 A. Yes.

18 Q. And what's the date of this order?

19 A. October the 6th, 2010.

20 Q. Okay. And have more than six months  
21 passed?

22 A. Yes.

23 Q. Okay. And so this request that you're  
24 making is to close out the escrow account for Z-12?

25 A. It is.

1 Q. And pay out a 100% of the money to Landon  
2 Wyatt, correct?

3 A. Yes.

4 MARK SWARTZ: That's all I have.

5 BUTCH LAMBERT: Any questions from the Board?

6 TOM PRUITT: Mr. Chairman.

7 BUTCH LAMBERT: Mr. Pruitt?

8 TOM PRUITT: There has been...we have received a  
9 challenge by one of the defendants of the original suit.  
10 It was certainly not timely. But they own approximately  
11 15% of this tract. Rather than paying it out with that  
12 outstanding challenge, we would request that the Board  
13 set aside that 15% and set a date certain so that  
14 defendant can be heard and we can examine whether their  
15 challenge has merit at this time. But I certainly don't  
16 want to...the remainder of the unit, we do request be  
17 paid out.

18 SHARON PIGEON: Mr. Pruitt, just to clarify what  
19 you've said, they're alleging that they own 15%?

20 TOM PRUITT: They are alleging. I spoke to  
21 their attorney, Mr. Mullins, and he said that his client  
22 owned approximately 15%. I understand---.

23 SHARON PIGEON: But you're not saying that they  
24 do. (Inaudible) misspoke.

25 TOM PRUITT: I did. I apologize for that.

1                   SHARON PIGEON: Just to clarify the record.

2                   TOM PRUITT: We...we have a tract of land that  
3 has a number of units on it. Our client owns the coal  
4 and mineral on that tract. Minerals defined by *Warren*  
5 *versus Clinchfield* in Virginia, a 1936 case, to include  
6 oil and gas. Now, all of the other units, because we  
7 own the coal, oil and gas, all the other units around on  
8 that tract were paid out many years ago to our client.  
9 But in 1990 on this one particular unit, the surface  
10 owners asserted a claim and they never prosecuted it.  
11 We asked for a hearing and that the case be prosecuted  
12 and they dropped the case. They allowed the case to  
13 remain dropped for more than six months. So, there's a  
14 question as to the validity of this original defendant's  
15 claim that is being asserted right now. We're willing  
16 to examine that. But we certainly have, we believe,  
17 free and uncontested title as to the remainder of the  
18 moneys here. We request that they be paid out. We ask  
19 the Court to set a date certain for a hearing on that  
20 15% claim.

21                   SHARON PIGEON: Is Mr. Mullins' client named  
22 Janice Street Taylor?

23                   TOM PRUITT: That is my understanding.

24                   SHARON PIGEON: Mark, do you know if that's  
25 the---?

1                   MARK SWARTZ: Well, there was a Janice Carol  
2 Taylor who was an original plaintiff in this case. So,  
3 I mean...I don't really have a dog in this. But, you  
4 know, this non-suit applied to her, which I assume  
5 you're going to be talking about at some point. So, I  
6 mean, my view, just...you know, when we looked at this  
7 and we looked at Mr. Pruitt's request, we went back and  
8 looked at the original petition and it looked like all  
9 of the folks who had surface owner claims under the  
10 Migratory Gas Act, which I think was repealed or held on  
11 a constitutional, I'm not sure, or maybe both. But she  
12 was one of the plaintiffs and not defendants. You know,  
13 if...if Mr. Pruitt on behalf of his client is prepared  
14 to honor an agreement with Tom Mullins in this regard, I  
15 don't have a problem with that. But I think you  
16 probably need to get some kind of letter or order  
17 language, you know, that you guys have signed off on  
18 before you make a disbursement.

19                   TOM PRUITT: I simply have notice of a competing  
20 claim. I'm bringing it to the Court's attention.

21                   SHARON PIGEON: Well, you've provided me a lot  
22 of documents at my request from the Clerk of the Court  
23 that were certified by the Clerk and the original  
24 petition does include this individual's name and she was  
25 represented by Robert Copeland and Mr. Copeland is the

1 attorney who dismissed the case. So, all claims that  
2 were tried or could have been tried are controlled by  
3 this non-suit. Now, that the six months has passed,  
4 that non-suit is the law of the case between these  
5 individuals.

6 TOM PRUITT: I do not contest the Board's  
7 attorney's opinion.

8 BUTCH LAMBERT: Any questions from the Board?  
9 Did everyone understand what the Assistant...Senior  
10 Assistant AG just explained? Any questions for her?

11 ALLEN COMPTON: Basically, what you're saying is  
12 go ahead and disburse everything except 15% until that  
13 is cleared up in the Court system, right?

14 TOM PRUITT: My client is willing to do that.

15 ALLEN COMPTON: Okay.

16 BUTCH LAMBERT: However, what our legal just  
17 said that we...we have been furnished with a copy of the  
18 non-suit---.

19 SHARON PIGEON: Actually, I've been furnished  
20 with these...with these...this many of copies of this  
21 case. It's a huge file. I'm sure there's more because  
22 it was open for ten years. The case was dismissed. The  
23 rule is six months. That gives you the opportunity to  
24 refile. Obviously, that time has elapsed. They do not.  
25 It's like a statute of limitations expiring.

1                   ALLEN COMPTON: Okay.

2                   BUTCH LAMBERT: So, the recommendation from our  
3 attorney is that we go ahead and disbursed based upon  
4 the non-suit that we have and the parties that have sent  
5 us the objection, which includes Janice Taylor. They  
6 have I guess just lost out. They're out---.

7                   SHARON PIGEON: Well, they may not have had a  
8 case with any merits in the first instance. Otherwise,  
9 I'm sure their attorneys would have refiled. Obviously,  
10 there was some reevaluation of their positions. There  
11 were two attorneys who know gas and oil law. Don  
12 Johnson also represented some...later the plaintiffs who  
13 joined the case. But neither Mr. Johnson nor Mr.  
14 Copeland refiled this case. It has been a year now. As  
15 far as this lawsuit is concerned, it's over.

16                   MARK SWARTZ: I will also say that we published  
17 this and Janice signed for a mailed notice with regard  
18 to this hearing on September the 17th of 2011. So, she  
19 has got actual notice just to sort of...and we filed  
20 that with the DGO today.

21                   TOM PRUITT: Mr. Chairman, I did receive a copy  
22 of a letter from Mr. Mullins advising I thought the  
23 Board that he could not be here today. I have discussed  
24 that one or more of the people here. But I don't know  
25 if that letter has been found.

1           BUTCH LAMBERT: The Board...did the Gas and  
2 Oil...the Board receive that. I haven't seen that  
3 letter.  
4           RICK COOPER: We received a letter from Janice  
5 on the 8th of last week.  
6           BUTCH LAMBERT: Yes. I think you supplied that  
7 in our packet from Janice Street, James Street and Mae  
8 Blankenship.  
9           RICK COOPER: Correct.  
10          BUTCH LAMBERT: Objecting to this disbursement.  
11 That is part of...you didn't see a letter from Mr.  
12 Mullins that he would not be---?  
13          RICK COOPER: No, I have not. I have not.  
14          MARK SWARTZ: He sent a letter last month to  
15 confirm that it wasn't going to go forward. I mean, I  
16 got that. But that's the only thing I've seen.  
17          RICK COOPER: Correct.  
18          TOM PRUITT: Correct.  
19          SHARON PIGEON: Well, this has been on docket  
20 for some period---.  
21          MARK SWARTZ: Right.  
22          SHARON PIGEON: ---of time now. We do have a  
23 certain mandate to disburse funds out of the escrow  
24 account.  
25          BUTCH LAMBERT: Any further discussion or



1 questions from the Board on this matter?  
2 (No audible response.)  
3 BUTCH LAMBERT: Anything further, Mr. Swartz?  
4 MARK SWARTZ: No.  
5 BUTCH LAMBERT: Anything further, Mr. Pruitt?  
6 TOM PRUITT: No, sir.  
7 BUTCH LAMBERT: Do I have a motion?  
8 BILL HARRIS: Mr. Chairman, let me ask....I  
9 thought you were talking about. This...we did receive  
10 another letter recently that's dated October 21.  
11 BUTCH LAMBERT: Yes. That's in---.  
12 BILL HARRIS: Do we need to address that? Was  
13 that the issue here?  
14 SHARON PIGEON: These individuals were part of a  
15 group that joined the lawsuit---.  
16 BILL HARRIS: Okay. I missed that.  
17 SHARON PIGEON: ---and were represented by Don  
18 Johnson. The Ella Bea Street Anderson was the other  
19 person...is her daughter. So, she has not present in  
20 anything. So, that's that one.  
21 BUTCH LAMBERT: Thank you. Mr. Harris, does  
22 that clear that up for you?  
23 BILL HARRIS: Yes. Yes.  
24 BUTCH LAMBERT: So, again, I'll call for a  
25 motion.

1                   MARY QUILLEN: Motion to approve.  
2                   ALLEN COMPTON: Second.  
3                   BUTCH LAMBERT: A motion and a second. Any  
4 further discussion?  
5                   (No audible response.)  
6                   BUTCH LAMBERT: All in favor, signify by saying  
7 yes.  
8                   (All members signify by saying yes, but Katie  
9 Dye.)  
10                  BUTCH LAMBERT: Opposed, no.  
11                  KATIE DYE: I'll abstain.  
12                  BUTCH LAMBERT: One abstention Mrs. Dye.  
13                  TOM PRUITT: Thank you.  
14                  BUTCH LAMBERT: Thank you, Mr. Pruitt...Pruitt.  
15 Calling docket item number eleven. A petition from CNX  
16 Gas Company, LLC for disbursement of funds and  
17 authorization of direct payment of royalties from a  
18 portion of Tract 3 for unit AY-98. This is docket  
19 number VGOB-05-1213-1542-02. All parties wishing to  
20 testify, please come forward.  
21                  MARK SWARTZ: Mark Swartz and Anita Duty.  
22                  BUTCH LAMBERT: You may proceed, Mr. Swartz.  
23                  MARK SWARTZ: Thank you.  
24  
25                                   ANITA DUTY

1 having been duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Anita, state your name for us again,  
6 please.

7 A. Anita Duty.

8 Q. Is...is...did you follow the procedure  
9 that you described initially when we were talking about  
10 the first request for disbursement today with regard to  
11 this tract...or with regard to this unit AY-98?

12 A. Yes.

13 Q. Okay. This...this is a request for a  
14 disbursement, correct?

15 A. It is.

16 Q. From what tract?

17 A. Tract 3.

18 Q. Is it a partial disbursement request?

19 A. It is.

20 Q. So, the escrow account is going to need  
21 to remain in existence after this disbursement is made?

22 A. Yes.

23 Q. What's the reason or the basis for the  
24 disbursement request?

25 A. It's actually a CBM deed between

1 Harrison-Wyatt and Beatrice McCormick.

2 Q. Okay. And the net effect of that deed is  
3 they cross deed the CBM to each other and divided it  
4 50/50, correct?

5 A. Yes.

6 Q. And you've actually seen that deed?

7 A. I have.

8 Q. And have you prepared an escrow  
9 calculation to quantify the percentage that the escrow  
10 agent needs to use to make this disbursement?

11 A. Yes.

12 Q. And is that the last page of your  
13 petition?

14 A. It is.

15 Q. Who is going to receive the proposed  
16 disbursement and what are the percentages that should be  
17 use?

18 A. Harrison-Wyatt, LLC will receive 3.8961%  
19 and Beatrice McCormick will also receive 3.8961%.

20 Q. And are you requesting that the  
21 escrow...that the operator be allowed to pay these two  
22 folks directly after these...if this disbursement is  
23 approved rather than escrowing their funds?

24 A. Yes.

25 Q. And the well that contributed to this

1 escrow account was?  
2 A. AY-98.  
3 Q. Okay. And have you provided the Board  
4 with an updated...as part of your original application,  
5 an updated Exhibit EE and E---?  
6 A. Yes.  
7 Q. ---to reflect these disbursements?  
8 A. I have.  
9 MARK SWARTZ: I think that's all I have, Mr.  
10 Chairman.  
11 BUTCH LAMBERT: Any questions from the Board?  
12 (No audible response.)  
13 BUTCH LAMBERT: Anything further, Mr. Swartz?  
14 MARK SWARTZ: No.  
15 BUTCH LAMBERT: Do I have a motion?  
16 MARY QUILLEN: Motion to approve.  
17 BRUCE PRATHER: Second.  
18 BUTCH LAMBERT: I have a motion and a second.  
19 Any further discussion?  
20 (No audible response.)  
21 BUTCH LAMBERT: All in favor, signify by saying  
22 yes.  
23 (All members signify by saying yes, but Katie  
24 Dye.)  
25 BUTCH LAMBERT: Opposed, no.

1 (No audible response.)  
2 BUTCH LAMBERT: Thank you, Mr. Swartz. It's  
3 approved.  
4 SHARON PIGEON: Mrs. Dye abstains.  
5 BUTCH LAMBERT: Huh?  
6 SHARON PIGEON: Mrs. Dye abstains.  
7 BUTCH LAMBERT: Oh.  
8 KATIE DYE: Oh, I'll abstain.  
9 BUTCH LAMBERT: One abstention Mrs. Dye.  
10 SHARON PIGEON: I was talking to her.  
11 BUTCH LAMBERT: Oh. Sharon, you can't do that.  
12 We're calling docket item number twelve. A petition  
13 from CNX Gas Company, LLC for disbursement of funds and  
14 authorization of direct payment of royalties from a  
15 portion of Tract 1A for unit AZ-100, docket number VGOB-  
16 03-0415-1139-02. All parties wishing to testify, please  
17 come forward.  
18 MARK SWARTZ: Mark Swartz and Anita Duty.  
19 BUTCH LAMBERT: You may proceed, Mr. Swartz.  
20 MARK SWARTZ: Thank you.  
21  
22 ANITA DUTY  
23 having been duly sworn, was examined and testified as  
24 follows:  
25 DIRECT EXAMINATION

1 QUESTIONS BY MR. SWARTZ:

2 Q. Anita, state your name for us, please.

3 A. Anita Duty.

4 MARK SWARTZ: I'd like to incorporate Anita's  
5 testimony with regard to these due diligence inquiry  
6 that she makes with regard to balances.

7 BUTCH LAMBERT: Accepted.

8 MARK SWARTZ: Thank you.

9 Q. Anita, is this a...also a request for a  
10 disbursement?

11 A. Yes.

12 Q. From what unit?

13 A. AZ-100.

14 Q. From what tract?

15 A. Tract 1A.

16 Q. Is it partial or complete?

17 A. A partial.

18 Q. Okay. What's the basis for this  
19 disbursement request?

20 A. A CBM deed between the two parties.

21 Q. Just like we discussed in the prior case?

22 A. Yes.

23 Q. Okay. And did you prepare an Exhibit A-1  
24 escrow calculation with regard to this tract?

25 A. Yes.

1 Q. Okay. And this is a little different  
2 than what we normally see, right?  
3 A. Yeah. Yes.  
4 Q. Yeah works. Okay.  
5 SHARON PIGEON: If it's loud.  
6 Q. Looking at Exhibit A-1, it looks like  
7 you're requesting an exact dollar amount disbursement.  
8 A. Yes.  
9 Q. Followed by a percentage disbursement?  
10 A. Yes.  
11 Q. Okay. The disbursements that you're  
12 requesting should go to what folks and be in what  
13 amounts or percentages?  
14 A. Okay. For the exact dollar amount, and  
15 it would be for Tract 1A for Harrison-Wyatt, LLC it  
16 should be \$314.41 and the same to paid to Adrian Sanders  
17 Horn.  
18 Q. The same 314.41?  
19 A. Yes.  
20 Q. Okay. Why is that an amount certain as  
21 opposed to a percentage like we normally see?  
22 A. She actually sold her interest.  
23 Q. So, it's to sort of fix that as of---?  
24 A. So, she has just paid up until that  
25 point, yes.



1 Q. Okay. And then with regard...and does  
2 that disbursement, the amount certain disbursement need  
3 to be made first before the percentage disbursements?

4 A. It does.

5 Q. Okay. And the percentage disbursements  
6 that you're requesting in this petition are to whom and  
7 in what percentages?

8 A. For that same Tract 1A, it's Harrison-  
9 Wyatt, LLC 6.1729%. For Beatrice McCormick 3.7037% and  
10 Jerry Sanders 2.4692%.

11 Q. Okay. And the well that contributed to  
12 this escrow account?

13 A. AZ-100.

14 Q. And the map or the balances that you're  
15 providing here actually are as of two different dates.  
16 One pertains to the date of a sale of an interest and  
17 what's that...what was that date?

18 A. November, 2010.

19 Q. Okay. And then estimates with regard to  
20 the dollar amounts and the calculation of the  
21 percentages are as of what date?

22 A. August, 2011.

23 Q. Okay. And with regard to the folks  
24 listed as receiving the percentage disbursements, are  
25 you requesting as the operator the opportunity and

1 ability to pay them directly in the future?

2 A. Yes.

3 MARK SWARTZ: That's all I have, Mr. Chairman.

4 BUTCH LAMBERT: Any questions from the Board?

5 (No audible response.)

6 BUTCH LAMBERT: Anything further, Mr. Swartz?

7 MARK SWARTZ: No.

8 BUTCH LAMBERT: Do I have a motion?

9 MARY QUILLEN: Motion to approve.

10 BRUCE PRATHER: Second.

11 BUTCH LAMBERT: I have a motion and a second.

12 Any further discussion?

13 (No audible response.)

14 BUTCH LAMBERT: All in favor, signify by saying

15 yes.

16 (All members signify by saying yes, but Katie

17 Dye.)

18 BUTCH LAMBERT: Opposed, no.

19 KATIE DYE: I'll abstain.

20 BUTCH LAMBERT: One abstention Mrs. Dye. Thank

21 you, Mr. Swartz. That's approved. Calling docket item

22 thirteen. A petition from CNX Gas Company, LLC for

23 disbursement of funds and authorization for direct

24 payment of royalties from Tracts 1A, 1B, 1C, 1D, 1F and

25 1H for unit AZ-103, docket number VGOB-06-0516-1631-02.

1 All parties wishing to testify, please come forward.

2 MARK SWARTZ: Mark Swartz and Anita Duty.

3 BUTCH LAMBERT: You may proceed, Mr. Swartz.

4 MARK SWARTZ: Thank you.

5

6 ANITA DUTY

7 having been duly sworn, was examined and testified as  
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. Anita, could you state your name for us,  
12 please?

13 A. Anita Duty.

14 MARK SWARTZ: I'd like to incorporate Anita's  
15 testimony from the first hearing today with regard to  
16 her employment and the due diligence efforts with regard  
17 to confirming deposit amounts.

18 BUTCH LAMBERT: Accepted.

19 MARK SWARTZ: Thank you.

20 Q. Is this also a disbursement request?

21 A. It is.

22 Q. Pertaining to what unit?

23 A. AZ-103.

24 Q. What tracts?

25 A. 1A, 1B, 1C, 1D, 1F and 1H.

1 Q. And if this disbursement is approved and  
2 these payments are made will it close out the account or  
3 does the account need to be maintained?  
4 A. It will need to be maintained.  
5 Q. Okay. And the reason for this request  
6 for disbursement is what?  
7 A. The CBM deeds.  
8 Q. Okay. So, we have again Harrison-Wyatt,  
9 LLC and a collection of deeds cross conveying a CBM  
10 interest that's dividing it 50/50?  
11 A. Yes.  
12 Q. And have you actually seen that deed?  
13 A. I have.  
14 Q. Okay. And can confirm that it a 50/50  
15 agreement?  
16 A. Yes.  
17 Q. Did you...the accounting that you did was  
18 as of what date?  
19 A. August the 31st, 2011.  
20 Q. Okay. And have you prepared an Exhibit  
21 A-1 for the escrow agent's use in making these  
22 disbursements on a percentage basis?  
23 A. Yes.  
24 Q. And does that exhibit reflect the wells  
25 that contributed to the escrow?

1           A.       AZ-103 and AZ-103A.

2           Q.       Okay.     And who is that you propose  
3 receive the disbursements and then for each person or  
4 company the percentage that the escrow agent should use?

5           A.       For Tract 1A, Harrison-Wyatt and Joanne  
6 Lambert should each receive 4.7338%.     For Tract 1B,  
7 Harrison-Wyatt and Joanne Lambert should each receive  
8 3.1219%.     For 1C, Harrison-Wyatt and Joanne Lambert  
9 should each receive 0.3513%.     For Tract 1D, Harrison-  
10 Wyatt should receive a total of 0.2108%.     Wesley  
11 Hatfield should receive 0.0324%, Judy Rollins 0.0324%,  
12 Harry Hatfield 0.0324% and Joanne Lambert 0.1135%.     For  
13 Tract 1F, Harrison-Wyatt should receive a total of  
14 1.5912%, Wesley Hatfield 0.2448%, Judy Rollins 0.2448%,  
15 Harry Hatfield 0.2448% and Joanne Lambert 0.8568%.     For  
16 Tract 1H, Harrison-Wyatt and Joanne Lambert should each  
17 receive 0.5248%.

18          Q.       Are you requesting that after these  
19 disbursements or if this disbursement request is  
20 approved the operator be allowed to pay all of these  
21 folks directly in accordance with their agreement?

22          A.       Yes.

23          Q.       Have you provided the Board as part of  
24 your package...application package a revised Exhibit EE  
25 that reflects these dated agreements and also a revised

1 Exhibit E with regard to the folks who still have money  
2 in escrow?

3 A. Yes.

4 MARK SWARTZ: That's all I have, Mr. Chairman.

5 BUTCH LAMBERT: For the record, to the best of  
6 my knowledge, I'm not related to the Joanne Lambert  
7 that's on record in Exhibit A-1. Any questions from the  
8 Board?

9 (No audible response.)

10 BUTCH LAMBERT: Anything further, Mr. Swartz?

11 MARK SWARTZ: No.

12 BUTCH LAMBERT: Do I have a motion?

13 MARY QUILLEN: Motion to approve.

14 BRUCE PRATHER: Second.

15 BUTCH LAMBERT: A motion and a second. Any  
16 further discussion?

17 (No audible response.)

18 BUTCH LAMBERT: All in favor, signify by saying  
19 yes.

20 (All members signify by saying yes, but Katie  
21 Dye.)

22 BUTCH LAMBERT: Opposed, no.

23 KATIE DYE: I'll abstain.

24 BUTCH LAMBERT: One abstention Mrs. Dye. Thank  
25 you, Mr. Swartz. It's approved. Calling docket item

1 fourteen. A petition from CNX Gas Company, LLC for  
2 disbursement of funds and authorization for direct  
3 payment of royalties from Tracts 1, 3C and 3D for unit  
4 BC-121. This is docket number VGOB-03-0218-1116-01.  
5 All parties wishing to testify, please come forward.

6 MARK SWARTZ: Mark Swartz and Anita Duty.

7 BUTCH LAMBERT: You may proceed, Mr. Swartz.

8

9

10

11

12

13

ANITA DUTY

14 having been duly sworn, was examined and testified as  
15 follows:

16

DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Anita, state your name for us, please.

19 A. Anita Duty.

20 MARK SWARTZ: Mr. Chairman, I'd like to  
21 incorporate Anita's testimony with regard to her  
22 employment and the due diligence efforts that she and  
23 her staff make with regards to confirming deposits.

24 BUTCH LAMBERT: Accepted.

25 MARK SWARTZ: Thank you.

1                   Q.     Anita, is this also a request for  
2 disbursement from escrow?  
3                   A.     It is.  
4                   Q.     It pertains to what unit?  
5                   A.     BC-121.  
6                   Q.     And what tracts?  
7                   A.     1, 3C and 3D.  
8                   Q.     And after the disbursement is made, will  
9 it close out the account or will the account need to be  
10 maintained?  
11                  A.     It will need to remain open.  
12                  Q.     Okay. The reason for this request for  
13 disbursement is what?  
14                  A.     Royalty split agreements.  
15                  Q.     Have you actually seen those agreements?  
16                  A.     Yes.  
17                  Q.     And what's the provision with regard to  
18 how the money is to be split?  
19                  A.     50/50.  
20                  Q.     Okay. And have you prepared an Exhibit  
21 A-1 that reflects the proposed disbursement?  
22                  A.     Yes.  
23                  Q.     Have you given the Board some revised  
24 exhibits today?  
25                  A.     Yes.



1 Q. Okay. And those revised exhibits are  
2 Exhibit E, I'm assuming EE as well and you're A-1,  
3 correct?

4 A. Yes.

5 Q. Why were the exhibits revised?

6 A. We were not able to get a W-9 from Daniel  
7 Keen, so we removed him from the disbursement to  
8 kick...make everything smoother.

9 Q. Okay. So, the only change then with  
10 regard...comparing...if you were to compare the exhibits  
11 to the company, the petition, and the revised exhibits  
12 today would be Daniel Keen has been removed for the  
13 reasons stated?

14 A. Yes.

15 Q. Okay. Turning then to the revised  
16 Exhibit A-1 that you've tendered today, who do you  
17 propose receive the disbursements and what percentages  
18 should the escrow agent use?

19 A. For Tract 1, Swords Creek and Sheila  
20 Loftin should each receive 1.5738%. Tract 3C, Swords  
21 Creek Land Partnership should receive a total of  
22 11.2096%, Alita Lockhart should receive 1.8683%, Rita  
23 Pow should receive 1.8683% and Angela Roberts should  
24 receive 1.8683% and Virginia Steele should receive  
25 5.6048%. For Tract 3D, Swords Creek Land Partnership

1 should receive a total of 3.4832% and Alita Lockhart,  
2 Rita Pow and Angela Roberts should each receive 1.1611%.

3 Q. And the calculations that you did on  
4 Exhibit...on revised Exhibit A-1 were for account  
5 balances as of what date?

6 A. August the 31st, 2011.

7 Q. And what's the well or wells contributing  
8 to the account?

9 A. BC-121.

10 Q. And are you requesting that in the event  
11 this disbursement is approved that the operator be  
12 allowed to pay these folks that are receiving the  
13 disbursements directly in the future?

14 A. Yes.

15 MARK SWARTZ: That's all I have, Mr. Chairman.

16 BUTCH LAMBERT: Any questions from the Board?

17 (No audible response.)

18 BUTCH LAMBERT: Ms. Duty, what's the note right  
19 after Virginia Steele accepts one-half of all royalties.  
20 Could you explain that?

21 ANITA DUTY: In this particular tract, Virginia  
22 Steele was married to Julius Steele, but in their  
23 divorce agreement he allowed her to have half of all of  
24 the royalties. Once he passed away his children  
25 received his half. So, she got half of it through the

1 divorce.

2 BUTCH LAMBERT: Sure. I understand.

3 ANITA DUTY: Okay. Sorry, I just had a moment

4 there.

5 BUTCH LAMBERT: Any other questions from the

6 Board?

7 (No audible response.)

8 BUTCH LAMBERT: Anything further, Mr. Swartz?

9 MARK SWARTZ: No.

10 BUTCH LAMBERT: Do I have a motion?

11 MARY QUILLEN: Motion to approve.

12 BRUCE PRATHER: Second.

13 BUTCH LAMBERT: A motion and a second. Any

14 further discussion?

15 (No audible response.)

16 BUTCH LAMBERT: All in favor, signify by saying

17 yes.

18 (All members signify by saying yes, but Katie

19 Dye.)

20 BUTCH LAMBERT: Opposed, no.

21 KATIE DYE: I'll abstain.

22 BUTCH LAMBERT: One abstention Mrs. Dye. Thank

23 you, Mr. Swartz. That's approved. Calling docket item

24 fifteen. It's a petition from CNX Gas Company, LLC for

25 disbursement of funds authorization for direct payment

1 of royalties and removing previous unknown and  
2 unlocateable respondents from Exhibit E in Tract 2B for  
3 unit EE-36, docket number VGOB-02-1015-1083-01.

4 MARK SWARTZ: Mark Swartz and Anita Duty.

5 BUTCH LAMBERT: You may proceed, Mr. Swartz.

6 MARK SWARTZ: Thank you.

7

8 ANITA DUTY

9 having been duly sworn, was examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Anita, state your name for us, please.

14 A. Anita Duty.

15 MARK SWARTZ: Mr. Chairman, I'd like to  
16 incorporate Anita's prior testimony with regard to her  
17 employment and her and her staff's exercise of due  
18 diligence to confirm deposit amounts.

19 BUTCH LAMBERT: Accepted.

20 MARK SWARTZ: Thank you.

21 Q. Anita, this is a request for a  
22 disbursement, correct?

23 A. Yes.

24 Q. From what unit?

25 A. EE-36.

1 Q. And what tract?  
2 A. 2B.  
3 Q. Okay. And if we look at Exhibit A-1 we  
4 can tell pretty quickly it's just a partial  
5 disbursement?  
6 A. It is.  
7 Q. And that the account needs to remain in  
8 existence?  
9 A. Yes.  
10 Q. Okay. The reason for this disbursement  
11 request is what?  
12 A. A court order.  
13 Q. Okay. And the person that's receiving  
14 this disbursement Joe Absher, right,---?  
15 A. Yes.  
16 Q. ---was a prevailing party in a lawsuit?  
17 Have you actually seen that order?  
18 A. Yes.  
19 Q. Okay. And the order awarded him the 100%  
20 that you're proposing be disbursed?  
21 A. Yes.  
22 Q. Okay. Turning to Exhibit A-1 with regard  
23 to this court order, what is the percentage that the  
24 escrow agent should use to make the disbursement to Joe  
25 Absher?

1           A.       He should receive 0.1313% of the account.  
2           Q.       Okay.   And this calculation was done as  
3 what account balances on what date?  
4           A.       August the 31st, 2011.  
5           Q.       And the wells that we're paying in for  
6 have been paying into this escrow account?  
7           A.       EE-36 and EE-36A.  
8           Q.       And are you requesting that the operator  
9 be allowed to pay Mr. Absher directly in the future?  
10          A.       Yes.  
11          Q.       Okay.   And then we've got a removed  
12 previous unknown/unlocateable respondents from Exhibit E  
13 and is the Exhibit E that's attached to your application  
14 does it do that?  
15          A.       Yes.  
16          Q.       Okay.  
17          A.       Just to explain what...when we were going  
18 back to compare the...we always look at the prior...the  
19 supplemental order when we're getting ready to file a  
20 petition and we noticed that there were...on that Tract  
21 4 there was several owners that were listed as address  
22 unknown that needed to be escrowed.   But according to  
23 our records we never paid those into escrow.   We  
24 actually paid them directly.   We found their addresses.  
25 So, in order to make the Exhibit E that's part of the

1 record correct, we wanted to make sure that we removed  
2 those individuals that were originally on there as  
3 unknown.

4 Q. Okay. To translate what you've just said  
5 into English, okay, I think what you said was your  
6 original list of address unknown with regard to Tract 4  
7 included a number of folks that you've been paying  
8 along.

9 A. Yes.

10 Q. And that because you've been paying them  
11 all along they don't have money in escrow.

12 A. Correct.

13 Q. So, Exhibit E needed to be modified, the  
14 existing Exhibit E, to delete them because they're not  
15 claimants against the escrow?

16 A. Correct.

17 Q. And so is the Exhibit E revised as of  
18 September the 8th, 2011 accurate as to the names of the  
19 folks who have claims to money that has been paid into  
20 escrow with regard to Tract 4?

21 A. Yes.

22 Q. Okay. Did you also revise Exhibit E?

23 A. Yes.

24 MARK SWARTZ: Okay. That's all I have, Mr.  
25 Chairman.

1                   SHARON PIGEON: Do you have the name of these  
2 individuals?  
3                   ANITA DUTY: I do.  
4                   SHARON PIGEON: Could you put that on the record  
5 for us?  
6                   ANITA DUTY: Yes. It was Emily Loraine Bales,  
7 Donald Horton, Carrie Mullins, Rebecca Jane Plaster and  
8 James R. Vandyke.  
9                   MARK SWARTZ: Those are the people that you've  
10 been paying?  
11                   ANITA DUTY: Yes. That were on the original  
12 Exhibit E.  
13                   SHARON PIGEON: Were always paid directly?  
14                   MARK SWARTZ: Correct.  
15                   ANITA DUTY: Yes.  
16                   SHARON PIGEON: Okay.  
17                   BUTCH LAMBERT: So, Clarence Randall McGlothlin  
18 is still unknown?  
19                   ANITA DUTY: And we are paying that into escrow.  
20                   BUTCH LAMBERT: Okay. Any questions from the  
21 Board?  
22                   (No audible response.)  
23                   BUTCH LAMBERT: Anything further, Mr. Swartz?  
24                   MARK SWARTZ: No.  
25                   BUTCH LAMBERT: Do I have a motion?



1                   MARY QUILLEN: Motion to approve.  
2                   BRUCE PRATHER: Second.  
3                   BUTCH LAMBERT:     Motion and a second.     Any  
4 further discussion?  
5                   (No audible response.)  
6                   MARY QUILLEN: All in favor, signify by saying  
7 yes.  
8                   (All members signify by saying yes, but Katie  
9 Dye.)  
10                  BUTCH LAMBERT: Opposed, no.  
11                  KATIE DYE: I'll abstain.  
12                  BUTCH LAMBERT: One abstention Mrs. Dye. Okay,  
13 ladies and gentlemen, we're going to take about a  
14 fifteen minute break.  
15                  (Break.)  
16                  BUTCH LAMBERT: Ladies and gentlemen, if you  
17 will please take your seats. It's time to resume.  
18 We've got a pretty good docket and we need to get back  
19 on track. We're calling docket item number sixteen. A  
20 petition from CNX Gas Company, LLC for disbursement of  
21 funds from escrow for Tract 1 for unit S-14, docket  
22 number VGOB-92-0317-0196-01. All parties wishing to  
23 testify, please come forward.  
24                  MARK SWARTZ: Mark Swartz and Anita Duty.  
25                  BUTCH LAMBERT: You may proceed, Mr. Swartz.

1                   MARK SWARTZ: Thank you.

2

3                                   ANITA DUTY

4           having been duly sworn, was examined and testified as  
5           follows:

6                                   DIRECT EXAMINATION

7           QUESTIONS BY MR. SWARTZ:

8                   Q.       Anita, would you state your name for us,  
9           please?

10                  A.       Anita Duty.

11                  MARK SWARTZ: Mr. Chairman, I'd like to  
12           incorporate Anita's testimony from the first docket item  
13           today with regard to her employment and the due  
14           diligence of the operator in terms of confirming account  
15           balances.

16                  BUTCH LAMBERT: Accepted.

17                  MARK SWARTZ: Thank you.

18                  Q.       Anita, this is also a request for a  
19           disbursement, correct?

20                  A.       It is.

21                  Q.       From what unit?

22                  A.       It's fourteen.

23                  Q.       And what tract?

24                  A.       1.

25                  Q.       And if we look at the Exhibit A

1 calculations, it's apparent that this will not close out  
2 the account, correct?

3 A. Correct.

4 Q. Okay. The basis for this petition is  
5 what?

6 A. A CBM deed, 50/50.

7 Q. So, we've got the same cross deed that  
8 we've seen before today involving Harrison-Wyatt, LLC,  
9 correct?

10 A. Yes.

11 Q. And have you done an escrow calculation?

12 A. Yes.

13 Q. And is that reported in Exhibit A-1?

14 A. It is.

15 Q. As of what date?

16 A. August the 31st, 2011.

17 Q. And is this a situation where the escrow  
18 agent should use the percentages reported?

19 A. Yes.

20 Q. Who are the receipts of the proposed  
21 disbursements and what percentages should the agent use?

22 A. Harrison-Wyatt, LLC and CNX Gas Company,  
23 LLC should each receive 15.9311% of the escrow account.

24 Q. And the wells that contributed to this  
25 account?

1           A.       S-14A and S-14B.

2           Q.       And are you requesting that the operator  
3 be allowed to pay these receipts directly if this  
4 application is approved?

5           A.       Yes.

6           Q.       And have you provided the Board with a  
7 revised Exhibit E and a revised Exhibit EE?

8           A.       Yes.

9           MARK SWARTZ: That's all I have, Mr. Chairman.

10          BUTCH LAMBERT: Any questions from the Board?  
11 (No audible response.)

12          BUTCH LAMBERT: Anything further, Mr. Swartz?

13          MARK SWARTZ: No.

14          BUTCH LAMBERT: Do I have a motion?

15          MARY QUILLEN: Motion to approve.

16          BRUCE PRATHER: Second.

17          BUTCH LAMBERT: I have a motion and a second.  
18 Any further discussion?

19          (No audible response.)

20          BUTCH LAMBERT: All in favor, signify by saying  
21 yes.

22          (All members signify by saying yes, but Katie  
23 Dye.)

24          BUTCH LAMBERT: Opposed, no.

25          KATIE DYE: I'll abstain.

1            BUTCH LAMBERT: One abstention Mrs. Dye. We're  
2 calling docket item seventeen. A petition from CNX Gas  
3 Company, LLC for disbursement of funds and authorization  
4 for direct payment of royalties from Tract 1A for unit  
5 AX-112, docket number VGOB-03-1118-1220-01. All parties  
6 wishing to testify, please come forward.

7            MARK SWARTZ: Mark Swartz and Anita Duty.

8            BUTCH LAMBERT: You may proceed, Mr. Swartz.

9            MARK SWARTZ: Thank you.

10

11                            ANITA DUTY

12 having been duly sworn, was examined and testified as  
13 follows:

14                            DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16            Q. Anita, state your name for us, please.

17            A. Anita Duty.

18            MARK SWARTZ: Mr. Chairman, again, I'd like to  
19 incorporate her prior testimony.

20            BUTCH LAMBERT: Accepted.

21            MARK SWARTZ: Thank you.

22            Q. Anita, is this also a request for  
23 disbursement?

24            A. It is.

25            Q. From what unit?

1 A. AX-112.  
2 Q. What tract?  
3 A. Tract 1A.  
4 Q. And, again, we have a partial  
5 disbursement and a need to maintain the escrow account?  
6 A. Yes.  
7 Q. What's the basis for this request?  
8 A. A royalty agreement.  
9 Q. Okay. And have you actually seen this  
10 agreement?  
11 A. Yes.  
12 Q. Okay. And what does it provide?  
13 A. 50/50.  
14 Q. And, again, it's limited...this  
15 disbursement request is limited to Tract 1A?  
16 A. It is.  
17 Q. Okay. Have you provided the Board  
18 with...and the escrow agent within Exhibit A-1  
19 calculating the percentages to be used?  
20 A. Yes.  
21 Q. And the account balances were as of what  
22 date?  
23 A. August the 31st, 2011.  
24 Q. And who should receive the proposed  
25 disbursement and then what percentages?

1           A.     Buck Horn Coal Company and CNX Gas  
2 Company, LLC should each receive 47.1485% of the  
3 account.  
4           Q.     And the wells that contributed to this  
5 account?  
6           A.     AX-112 and AX-112A.  
7           Q.     And are you also requesting the operator  
8 be allowed to pay Buck Horn and CNX directly with regard  
9 to Tract 1A if this application is approved?  
10          A.     Yes.  
11          Q.     And have you provided the Board with  
12 revised Exhibit E and a revised EE?  
13          A.     Yes.  
14          MARK SWARTZ: That's all I have, Mr. Chairman.  
15          BUTCH LAMBERT: Any questions from the Board?  
16                 (No audible response.)  
17          BUTCH LAMBERT: Anything further, Mr. Swartz?  
18          MARK SWARTZ: No.  
19          BUTCH LAMBERT: Do I have a motion?  
20          MARY QUILLEN: Motion to approve.  
21          BRUCE PRATHER: Second.  
22          BUTCH LAMBERT: I have a motion and a second.  
23 Any further discussion?  
24                 (No audible response.)  
25          BUTCH LAMBERT: All in favor, signify by saying

1 yes.

2 (All members signify by saying yes, but Katie  
3 Dye.)

4 BUTCH LAMBERT: Opposed, no.

5 KATIE DYE: I'll abstain.

6 BUTCH LAMBERT: One abstention Mrs. Dye. Item  
7 eighteen on the docket is a petition from CNX Gas  
8 Company, LLC for a one time reimbursement of overpayment  
9 to the operator prior to additional disbursement of  
10 funds and authorization for direct payment of royalties  
11 from a portion of Tract 3 for unit S-44, docket number  
12 VGOB-00-0321-0784-02. All parties wishing to testify,  
13 please come forward.

14 MARK SWARTZ: Mark Swartz and Anita Duty.

15 BUTCH LAMBERT: You may proceed, Mr. Swartz.

16 MARK SWARTZ: Thank you.

17

18 ANITA DUTY

19 having been duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Anita, would you state your name for us,  
24 please?

25 A. Anita Duty.



1                   MARK SWARTZ: I'd like to incorporate Anita's  
2 prior testimony with regard to her employment and  
3 account due diligence.

4                   BUTCH LAMBERT: Accepted.

5                   MARK SWARTZ: Thank you.

6                   Q.       Anita, this is a disbursement request.  
7 But in addition it is a request for a reimbursement to  
8 the operator, correct?

9                   A.       Yes.

10                  Q.       What happened here that requires that?

11                  A.       They released the tract that should not  
12 have been paid to escrow. It should have actually been  
13 paid to an individual. They paid it into the account.  
14 So, we're just asking for that overpayment back.

15                  BUTCH LAMBERT: Now, could you say that again,  
16 Ms. Duty?

17                  A.       In English?

18                  SHARON PIGEON: Yes.

19                  A.       Our accounting had...this \$36,000 payment  
20 should have actually gone to an owner that was released  
21 due to a...I guess maybe a trust or something. I don't  
22 know exactly the reason for the release. But it should  
23 have never gone to escrow. They picked the wrong party  
24 number when they were actually...when they were sending  
25 the payment, so it went to the escrow account rather

1 than going to the individual. So, we went ahead and  
2 paid the individual again. We paid them the \$36,000.  
3 We just need the reimbursement back from the  
4 account...from the escrow account for our records.

5 BUTCH LAMBERT: Okay.

6 Q. Okay. And---?

7 A. I know. I'm the worse at explaining  
8 anything. I'm sorry.

9 SHARON PIGEON: Yeah, we got that.

10 A. I could never be a teacher.

11 Q. And that amount and the timing of the  
12 disbursements is reflected on the Exhibit A-1 that  
13 you've provided here?

14 A. Yes.

15 Q. Okay. Let's start with what you unit  
16 does this involve?

17 A. S-44.

18 Q. Okay. And with regard to the proposed  
19 disbursements to folks as opposed to the reimbursement,  
20 what tract does it involve?

21 A. Tract 3.

22 Q. Okay. And is this a partial disbursement  
23 and is the account...the escrow account going to be  
24 required to be maintained even after the overpayment  
25 reimbursement and the disbursements to these owners?

1           A.     Yes.

2           Q.     Okay.     What is...with regard to the

3 request for disbursements as opposed to reimbursement,

4 what's the basis for that request?

5           A.     Royalty split agreements.

6           Q.     Okay.     And have you actually...is it a

7 written agreement?

8           A.     They are.

9           Q.     Have you actually seen them?

10          A.     Yes.

11          Q.     And what are their terms?

12          A.     50/50.

13          Q.     Are they all 50/50 agreements?

14          A.     They are.

15          Q.     Okay.     And then have you have taken the

16 balance information that you've developed, the acreage

17 from the order and the interest in these units, have

18 you...have you prepared a disbursement exhibit?

19          A.     Yes.

20          Q.     Usually they call this Exhibit A-1,

21 right?

22          A.     Yes.

23          Q.     And for some reason or other that's not

24 here, but it's the last page of this application?

25          A.     It is.

1 Q. Okay. And does this exhibit reflect  
2 payments or disbursements that need to sort of be timed?  
3 A. Yes.  
4 Q. So, the first thing that needs to happen  
5 is the escrow agent needs to reimburse CNX Gas for the  
6 mistaken payment that they made into escrow?  
7 A. Yes.  
8 Q. And you're not including interest in that  
9 payment, are you?  
10 A. No.  
11 Q. Okay. So, that's just the net payment  
12 that you made?  
13 A. Yes.  
14 Q. And if that money earned interest, it's  
15 going to be divided among the other owners who have  
16 claims against that account?  
17 A. Yes.  
18 Q. Okay. Now, with regard to...once that  
19 payment is made, then are you asking that the escrow  
20 agent make disbursements?  
21 A. Yes.  
22 Q. To whom and what percentages should be  
23 used then for the disbursements?  
24 A. For...I don't know if that's a total or  
25 not. Yes, it is. For James McGuire Land Trust a total

1 of 6.5383% should be paid from escrow, for John Ralph  
2 Boyd 0.1119%, Viola Bentley 0.1119%, James Cantrell  
3 0.1603%,---.

4 Q. Did you skip Bradley or did I---?

5 A. I don't think so.

6 Q. Okay. Go ahead. Sorry.

7 A. ---for Robert Bradley 0.0916%, John  
8 Anthony Cantrell 0.058...0.0583%, for Shirley Collins  
9 0.1603%, Donna Blizzard 0.1603%, Patricia Boreman  
10 0.0801%, Van Justus 0.0801%, Joel Shortt 0.7836%, Teddy  
11 Morefield 0.7836%, Cathy Morefield Pow 0.2612%, Shannon  
12 Morefield 0.2612%, Dennis Morefield 0.2612%, Ruby Sparks  
13 0.2351%, Grady McGlothlin and Annis McGlothlin should  
14 each receive 0.0784%, John Boyd and Viola Bentley an  
15 additional 0.7...0.0731% each, for Nell Houston 0.2204%,  
16 Mary Pruitt 0.8816%, Connie Duncan 0.1469%, Pauline  
17 Davis, Geraldine Mounts and Walter Cantrell should each  
18 receive 0.1679% and Naomi McFrederick 0.8816%.

19 Q. And after these disbursements are made to  
20 the folks that you've just named and given percentages  
21 for, is the operator requesting the right to pay them  
22 directly?

23 A. Yes.

24 Q. And the wells that contributed to this  
25 escrow account are?

1           A.       S-44 and S-44A.

2           Q.       And the account balances that you used to

3 do the calculations were as of what date?

4           A.       September the 30th, 2011.

5           MARK SWARTZ: That's all I have, Mr. Chairman.

6           BUTCH LAMBERT: And we'll mark that part of the

7 exhibit as 1A.

8           MARK SWARTZ: Okay.

9           BUTCH LAMBERT: Any questions from the Board?

10          BRUCE PRATHER: Mr. Chairman,---.

11          BUTCH LAMBERT: Mr. Prather.

12          BRUCE PRATHER: ---Anita left Ruby Sparks out of

13 the columns. When you were going down through there,

14 you left Ruby Sparks out.

15          ANITA DUTY: Okay. Ruby Sparks should receive

16 0.2351%.

17          BRUCE PRATHER: Thank you.

18          BUTCH LAMBERT: Any other questions from the

19 Board?

20                (No audible response.)

21          BUTCH LAMBERT: Anything further, Mr. Swartz?

22          MARK SWARTZ: No.

23          BUTCH LAMBERT: Do I have a motion?

24          ALLEN COMPTON: Motion to approve.

25          BILL HARRIS: Second.

1                   BUTCH LAMBERT: A motion and a second. Any  
2 further discussion?  
3                   (No audible response.)  
4                   BUTCH LAMBERT: All in favor, signify by saying  
5 yes.  
6                   (All members signify by saying yes, but Katie  
7 Dye.)  
8                   BUTCH LAMBERT: Opposed, no.  
9                   KATIE DYE: I'll abstain.  
10                  BUTCH LAMBERT: One abstention Mrs. Dye. Thank  
11 you, Mr. Swartz. It's approved. Docket item nineteen  
12 is a petition from CNX Gas Company, LLC for disbursement  
13 of funds and authorization for direct payment of  
14 royalties from Tracts 2 and 3 for unit Z-9, docket  
15 number VGOB-91-0430-0115-01. All parties wishing to  
16 testify, please come forward.  
17                  MARK SWARTZ: Mark Swartz and Anita Duty.  
18                  BUTCH LAMBERT: You may proceed, Mr. Swartz.  
19                  MARK SWARTZ: Thank you.  
20  
21  
22  
23  
24  
25

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us again.

A. Anita Duty.

Q. It's another miscellaneous petition for disbursement, right?

A. Yes.

MARK SWARTZ: Mr. Chairman, I'd like to incorporate Anita's testimony earlier today with regard to her job responsibilities and her due diligence with regard to account balances.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. This pertains to what unit?

A. Z-9.

Q. And what tracts?

A. Tracts 2 and 3.

Q. Okay. And if the disbursements that you are requesting here are made will this escrow account for Z-9 need to continue in existence for other money and other owners?



1           A.     Yes.

2           Q.     Okay.  What's the reason or the basis for  
3 this disbursement request?

4           A.     CBM deeds.

5           Q.     And this is the same sort of CBM cross  
6 deed that we talked about earlier today involving  
7 Harrison-Wyatt, LLC and others?

8           A.     Yes.

9           Q.     Okay.  And have you actually seen these  
10 deeds?

11          A.     Yes.

12          Q.     And I assume since you've said, they're  
13 50/50 deeds is that correct?

14          A.     Yes.

15          Q.     Have you used 50/50 as a basis for your  
16 Exhibit A-1?

17          A.     Yes.

18          Q.     The account balances that you've used in  
19 A-1 were as of what date?

20          A.     August the 31st, 2011.

21          Q.     Okay.  Who is it proposed would receive  
22 disbursements as a result of this petition and what  
23 percentages...given the percentages the escrow agent  
24 should use?

25          A.     For Tract 2, Harrison-Wyatt, LLC and

1 Robert Rash should each receive 21.7864%. For Tract 3,  
2 Harrison-Wyatt should receive a total of 9.5463% and  
3 Willie Newberry should receive 3.1821%, Roger Miller  
4 3.1821%, Teresa McGlothlin 1.5911% and Sherry Boyd  
5 1.5911%.

6 Q. And after those folks receive those  
7 disbursements or if this application is approved, are  
8 you requesting the ability as operator to pay these  
9 people directly?

10 A. Yes.

11 Q. And the well or wells contributing to  
12 this escrow account has been?

13 A. Z-9.

14 Q. And have you provided the Board with  
15 updated Exhibits E and EE?

16 A. Yes.

17 MARK SWARTZ: That's all I have, Mr. Chairman.

18 BUTCH LAMBERT: Any questions from the Board?

19 SHARON PIGEON: And since we have an Exhibit E,  
20 this is a partial disbursement out of this account?

21 MARK SWARTZ: Correct.

22 BUTCH LAMBERT: Anything further, Mr. Swartz?

23 MARK SWARTZ: No.

24 BUTCH LAMBERT: Do I have a motion?

25 MARY QUILLEN: Motion to approve.

1                   BRUCE PRATHER: Second.  
2                   BUTCH LAMBERT: I have a motion and a second.  
3 Any further discussion?  
4                   (No audible response.)  
5                   BUTCH LAMBERT: All in favor, signify by saying  
6 yes.  
7                   (All members signify by saying yes, but Katie  
8 Dye.)  
9                   BUTCH LAMBERT: Opposed, no.  
10                  KATIE DYE: I'll abstain.  
11                  BUTCH LAMBERT: One abstention Mrs. Dye. Thank  
12 you, Mr. Swartz. It's approved.  
13                  MARK SWARTZ: Thank you.  
14                  BUTCH LAMBERT: We're calling docket item number  
15 twenty. A petition from EQT Production Company on  
16 behalf of Randall and Virginia Vandergrift and Range  
17 Resources for disbursement of funds and authorization of  
18 direct payment for Tract 6 for unit 703594, docket  
19 number VGOB-96-0820-0552-03. All parties wishing to  
20 testify, please come forward.  
21                  JIM KAISER: Mr. Chairman, Jim Kaiser and Spence  
22 Hale for EQT Production Company.  
23                  (Spence Hale is duly sworn.)  
24                  BUTCH LAMBERT: You may proceed.  
25                  JIM KAISER: We have quite a few revised

1 exhibits. This is one that was continued last month.

2 (Exhibits are passed out.)

3

4

SPENCE HALE

5 having been duly sworn, was examined and testified as  
6 follows:

7

DIRECT EXAMINATION

8

QUESTIONS BY MR. KAISER:

9

Q. Mr. Hale, if you could state your name,  
10 who you're employed by and in what capacity?

11

A. Spence Hale, EQT Production Company as a  
12 landman.

13

Q. And is this a disbursement request?

14

A. It is.

15

Q. And it's for what unit?

16

A. 3594...703594.

17

Q. No. No, we're doing Vandergrift first.  
18 That's not what my thing...God, almighty.

19

SHARON PIGEON: (Inaudible) every minute.

20

Q. Okay. That's correct. Okay. And what  
21 tract?

22

A. It will be Tract 6.

23

Q. And is this a...this will be a partial  
24 disbursement, there will still be money in escrow in  
25 that account?

1 A. That is correct.

2 Q. So, we do not need to close out the sub  
3 account for that tract or the account for the entire  
4 unit, correct?

5 A. No.

6 Q. And what's the reason for the  
7 disbursement? Is it a split agreement?

8 A. There is.

9 Q. And did you provide...have we just  
10 provided a revised exhibit to the Board to calculate the  
11 amount of disbursement?

12 A. We did.

13 Q. And that's as of what...those figures are  
14 as of what date?

15 A. Those amounts were taken from the August,  
16 2011 escrow agent summary.

17 Q. Okay. And we're dealing with Tract 6,  
18 the Virginia and Randall Vandergrift interest, correct?

19 A. That is right.

20 Q. And does the exhibits that you've  
21 prepared represent the percentages that the escrow agent  
22 should use for disbursement?

23 A. Yes.

24 Q. And who should receive the disbursement  
25 and then what percentage?

1           A.       The disbursement should go to Virginia  
2 and Randall Vandergrift and their percentage in the  
3 remaining escrow is 26.929982%.

4           Q.       Okay. And that's the figure the escrow  
5 agent should use to disburse?

6           A.       Yes.

7           Q.       And have we provided the Board with  
8 Exhibit...with the application with Exhibits E and EE to  
9 accurately reflect who should be disbursed?

10          A.       Yes, we have.

11          Q.       And who should remain in escrow?

12          A.       Yes.

13          Q.       And would we ask the Board if this  
14 application is approved going forward that the  
15 Vandergrifts be paid their royalty directly?

16          A.       Yes.

17          JIM KAISER: Nothing further at this time, Mr.  
18 Chairman.

19          BUTCH LAMBERT: Any questions from the Board?

20          MARY QUILLEN: Mr. Chairman, could you...I have  
21 just one question, what was the date that you said those  
22 figures were from?

23          SPENCE HALE: It would be August, 2011.

24          SHARON PIGEON: The figures that you're using  
25 that came from the escrow agent, you didn't compare that

1 to your record of deposits into the escrow account?

2 SPENCE HALE: We did.

3 JIM KAISER: Yeah, it's reconciled. Sorry.

4 SHARON PIGEON: I didn't understand that from

5 your testimony. Thank you.

6 BUTCH LAMBERT: Mr. Hale, a lot us are getting

7 old, would you mind kind of increasing your fonts just a

8 little bit?

9 SPENCE HALE: Yeah, we'll try to help you out on

10 that.

11 BUTCH LAMBERT: We'd appreciate that.

12 SHARON PIGEON: You had all of this room left on

13 page two. You could stand an increase.

14 BUTCH LAMBERT: Well, Ms. Quillen, can we borrow

15 your magnifying glass?

16 SPENCE HALE: We'll take care of that.

17 BUTCH LAMBERT: Thank you. Mr. Kaiser, do you

18 have a plat that has been signed or certified by the---?

19 JIM KAISER: Yeah.

20 SPENCE HALE: I have a copy of the plat and the

21 split agreement.

22 BUTCH LAMBERT: If you could just hand that to

23 Mr. Cooper, please. Thank you. Any other questions

24 from the Board?

25 JIM KAISER: Were those two items not in your

1 file?

2 BUTCH LAMBERT: The signed plat is not.

3 SHARON PIGEON: The plat is not.

4 JIM KAISER: Okay.

5 SHARON PIGEON: Actually, neither was in our  
6 file.

7 JIM KAISER: The split agreement was, wasn't it?

8 BUTCH LAMBERT: No. I don't have it. Well,  
9 yes, I do. Yeah, we do. Any other questions from the  
10 Board?

11 MARY QUILLEN: Just one question. On this  
12 handout there is also another disbursement to a Pauline  
13 McCoy.

14 JIM KAISER: Yes, ma'am. That reflects the  
15 disbursement that was made either last month or the  
16 prior month on this unit. That was from Tract 1. I had  
17 told...I asked the client not to include that on there  
18 because I thought that would confuse everybody. But  
19 they said that's the way you all wanted it.

20 MARY QUILLEN: Well, it needs to have the  
21 Exhibit A-1 on it and who we're disbursing it to should  
22 be on that A-1 at this...you know, for this particular  
23 docket item.

24 BUTCH LAMBERT: You're right, Mr. Kaiser. That  
25 made it very confusing. I'm not sure who requested



1 that. But we prefer not to have it that way.  
2 MARY QUILLEN: Yeah.  
3 BUTCH LAMBERT: And make it a little bigger too.  
4 SHARON PIGEON: And if you don't have that on  
5 there, you have all of this additional room to make it  
6 bigger.  
7 JIM KAISER: So, we had...to kind of give you  
8 the history of this unit, we pooled it and that was the  
9 original docket. Then -01 was a repooling and -02 was  
10 Ms. McCoy's disbursement and -03 is the Vandergrift  
11 disbursement. It just confused me to. If we have  
12 already done that one, why is it on there? Their reply  
13 was that's the way the Board wants it. So, apparently  
14 it's not.  
15 BUTCH LAMBERT: Any other questions from the  
16 Board?  
17 (No audible response.)  
18 BUTCH LAMBERT: Anything further, Mr. Kaiser?  
19 JIM KAISER: We'd ask that the application be  
20 approved as submitted with the revised information.  
21 BUTCH LAMBERT: Do I have a motion?  
22 MARY QUILLEN: Motion to approve.  
23 BRUCE PRATHER: Second.  
24 BUTCH LAMBERT: I have a motion and a second.  
25 Any further discussion?

1 (No audible response.)  
2 BUTCH LAMBERT: All in favor, signify by saying  
3 yes.  
4 (All members signify by saying yes.)  
5 BUTCH LAMBERT: Opposed, no.  
6 (No audible response.)  
7 BUTCH LAMBERT: Thank you, Mr. Kaiser. It's  
8 approved. We're calling docket item twenty-one. A  
9 petition from EQT Production Company on behalf of Alcie  
10 Keen and Range Resources for disbursement of funds and  
11 authorization of direct payment for Tract 3 for unit  
12 536448, docket number VGOB-06-1017-1739-01. All  
13 parties---.  
14 JIM KAISER: Jim Kaiser and Spence Hale again  
15 for EQT Production Company. We've got a whole bunch of  
16 revised stuff. A lot of it has to do with spelling Ms.  
17 Keen's name. I guess her name is Alcie and sometimes  
18 it's spelled Alice.  
19 BUTCH LAMBERT: Alcie. I'm sorry.  
20 (Exhibits are passed out.)  
21 JIM KAISER: I'll let you know up-front, you'll  
22 see on the split agreement that she has an interest in a  
23 bunch of different wells and this is only one today. We  
24 are working on getting all of the other ones ready for  
25 disbursement.

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25

SPENCE HALE

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hale, is this...could you repeat who you work for?

A. EQT Production Company.

Q. And what do you do for them?

A. A landman.

Q. And is this a disbursement request?

A. It is.

Q. And it's for what unit?

A. Unit VC-536448.

Q. And what tract?

A. It's Tract 3.

Q. And it will be just a partial disbursement and we'll still need to keep the sub account open and the account for the entire unit open, is that correct?

A. That's correct.

Q. And the reason for the disbursement?

A. They signed a split agreement.

Q. And did we provide a...what should be called Exhibit 1-A for purposes of...to calculate the

1 amount of disbursement?

2 A. Yes.

3 Q. And what date were those figures as of?

4 A. August, 2011.

5 Q. And what are the percentages the escrow

6 agent should use for disbursement for Ms. Keen?

7 A. Ms. Keen should have 0.03920134%.

8 Q. And should she receive the disbursement

9 in that percentage?

10 A. Yes.

11 Q. And have we provided the Board with

12 revised Exhibits E and EE to reflect this

13 disbursement...who should be disbursed and who should

14 remain in escrow?

15 A. We have.

16 Q. And should Ms. Keen...would you ask if

17 the order should be approved allow Ms. Keen to be paid

18 her royalty directly going forward?

19 A. Yes.

20 JIM KAISER: Nothing further at this time, Mr.

21 Chairman.

22 BUTCH LAMBERT: Any questions from the Board?

23 (No audible response.)

24 BUTCH LAMBERT: Anything further, Mr. Kaiser?

25 JIM KAISER: We'd ask that the application be

1 approved as submitted with all of those revised  
2 exhibits.

3 BUTCH LAMBERT: Do I have a motion?

4 MARY QUILLEN: Motion to approve.

5 BRUCE PRATHER: Second.

6 BUTCH LAMBERT: I have a motion and a second.

7 Any further discussion?

8 (No audible response.)

9 BUTCH LAMBERT: All in favor, signify by saying  
10 yes.

11 (All members signify by saying yes.)

12 BUTCH LAMBERT: Opposed, no.

13 (No audible response.)

14 BUTCH LAMBERT: Thank you, Mr. Kaiser. It's  
15 approved. Mr. Kaiser, if we can, I'd like to back up to  
16 docket item twenty-one again. I don't...we're not sure  
17 if Mr. Hale testified about his checking of the account  
18 balances with the escrow agent.

19 JIM KAISER: Do we need to go get him back?

20 ALLEN COMPTON: He left.

21 BUTCH LAMBERT: Is he gone for the day?

22 JIM KAISER: I don't think so. He's probably  
23 out there.

24 (Jim Kaiser retrieves Spence Hale from outside  
25 the Board room.)

1                    BUTCH LAMBERT: Sorry, Mr. Hale. We let you get  
2 away too quickly.

3                    SPENCE HALE: Not a problem.

4

5

SPENCE HALE

6

DIRECT EXAMINATION RESUMES

7

QUESTIONS BY MR. KAISER:

8

Q.        Mr. Hale, we're going back to the  
9 petition for disbursement in item twenty-one, which is  
10 for unit 536448 in Alcie Keen. Would it be your...is it  
11 your testimony that the figures that you've presented in  
12 what we're calling Exhibit 1-A have been reconciled  
13 between the bank and EQT's figures?

14

A.        They have been.

15

JIM KAISER: Thank you.

16

BUTCH LAMBERT: I did have one more question for  
17 you. Mr. Hale, looking at your handouts that should  
18 have been marked A-1, a know you list Tract 2, 3...2---.

19

SHARON PIGEON: 1, 2 and 3.

20

BUTCH LAMBERT: 1, 2 and 3. In couple of places  
21 you've got Tract 3. Which...I know, Mr. Kaiser, you  
22 said that she would have an interest in several wells.

23

JIM KAISER: Several wells, but only in Tract 3  
24 in this well.

25

BUTCH LAMBERT: Only in Tract 3?

1                   JIM KAISER: Right.

2                   BUTCH LAMBERT: Mr. Hale, could you testify one  
3 more time, please, the percentage for Ms. Keen in Tract  
4 3?

5                   SHARON PIGEON: Just for this application.

6                   BUTCH LAMBERT: Just for this...for this  
7 application.

8                   SPENCE HALE: Her percentage in this one---.

9                   MARY QUILLEN: That's Tract 3, correct?

10                  SPENCE HALE: Yes.

11                  BRUCE PRATHER: Yeah.

12                  SPENCE HALE: And the escrowed funds...do you  
13 want her percentage in the escrowed funds, right?

14                  SHARON PIGEON: That you want disbursed.

15                  SPENCE HALE: Right. It's 0.00392.

16                  JIM KAISER: There's only one 0.

17                  SPENCE HALE: Yeah. There's a discrepancy  
18 there.

19                  JIM KAISER: I think you need to use this figure  
20 right here.

21                  SPENCE HALE: Okay. Excuse me. 0.03920134%.  
22 We will...we can submit revised exhibits. I guess  
23 the...typo corrected at the top of that.

24                  BUTCH LAMBERT: Okay. Help...help us out here.  
25 Again, these charts are small and confusing. We have

1 two different Tract 3s and we're talking about...you've  
2 given us two different amounts...two percentages.

3 SPENCE HALE: The top---.

4 JIM KAISER: Block.

5 SPENCE HALE: ---block---.

6 BUTCH LAMBERT: The top one?

7 SPENCE HALE: ---represents the folks' interest  
8 in the unit as a whole.

9 BUTCH LAMBERT: Okay.

10 SPENCE HALE: And the next block, the second one  
11 down, represents their interest in the escrow, not in  
12 the unit.

13 SHARON PIGEON: So, the top one includes a non-  
14 escrowed amount?

15 SPENCE HALE: That's correct.

16 SHARON PIGEON: So, we don't need that  
17 information.

18 BUTCH LAMBERT: Okay. We don't need that one.  
19 We're just working off the second. Okay, thank you for  
20 the confusion and getting---.

21 SHARON PIGEON: Thank you for the---.

22 JIM LOVETTE: Mr. Chairman. I thought you had  
23 mention that there was a revised Exhibit E also.

24 SPENCE HALE: Yes.

25 JIM LOVETTE: We did not receive that. We just



1 have the EE.

2 SPENCE HALE: Actually, it was just a revised  
3 Exhibit B, right?

4 MARY QUILLEN: There's a EE.

5 JIM LOVETTE: We received a supplemental...we  
6 received a B and an EE. But I think in testimony you  
7 had mentioned that there was a revised EE or revised E  
8 also and we do not have that.

9 JIM KAISER: Well, we'll correct that testimony.  
10 We provided an Exhibit E with our application, but no  
11 revised Exhibit E.

12 JIM LOVETTE: Okay. So, the original E is  
13 correct?

14 SHARON PIGEON: So, there is no revised, but  
15 there should be?

16 JIM KAISER: Huh?

17 SHARON PIGEON: There should be a revised  
18 because we're paying this person out of escrow and you  
19 haven't provided the E. Is that the situation?

20 SPENCE HALE: We've provided the E, but there  
21 wasn't a revised E. We provided the original Exhibit E  
22 in the original petition.

23 SHARON PIGEON: That showed Ms. Keen in it and  
24 now you're paying out? So, she should come out of E?

25 JIM KAISER: She should be on EE, but not in E.

1           SHARON PIGEON: So, you would need a revised E  
2 to show that she's coming out of escrow.  
3           BUTCH LAMBERT: We have a revised EE, but not E.  
4           JIM KAISER: She is not in the original E. So,  
5 that's good.  
6           BUTCH LAMBERT: Okay. The E that we filed with  
7 the application is fine, okay.  
8           SHARON PIGEON: So, you had correct in that  
9 application?  
10          JIM KAISER: Yes, ma'am.  
11          SHARON PIGEON: All right. All right. We're  
12 with you now.  
13          BUTCH LAMBERT: Okay. Okay, thank you. Thank  
14 you, Mr. Hale.  
15          SHARON PIGEON: Don't drive away too fast.  
16          SPENCE HALE: Yeah. I'll hang around for a few  
17 more minutes.  
18          BUTCH LAMBERT: Now, we're calling docket item  
19 twenty-two. A petition from Range Resources-Pine  
20 Mountain, Inc. on behalf of Mary Sue Harris Trust,  
21 Trustee, Michael Kauble for disbursement of funds and  
22 authorization of direct payment for Tracts 1 and 2 for  
23 unit 825694. This is docket number VGOB-06-1017-1749-  
24 01. All parties wishing to testify, please come  
25 forward.

1                   JIM KAISER: Jim Kaiser and Phil Horn for Range  
2 Resources.

3                   (Phil Horn is duly sworn.)

4                   BUTCH LAMBERT: You may proceed, Mr. Kaiser.

5

6                                   PHIL HORN

7 having been duly sworn, was examined and testified as  
8 follows:

9                                   DIRECT EXAMINATION

10 QUESTIONS BY MR. KAISER:

11                   Q.       Mr. Horn, if you would state your name,  
12 who you're employed by and what you do for them?

13                   A.       My name is Phil Horn.    I'm the land  
14 manager for Range Resources-Pine Mountain, Inc.

15                   Q.       And is this a disbursement request?

16                   A.       Yes, it is.

17                   Q.       And for what unit?

18                   A.       It's 825694.

19                   Q.       And have all parties been notified?

20                   A.       Yes.

21                   Q.       And what tract is this disbursing from or  
22 tracts actually in this case?

23                   A.       Tracts 1 and 2.

24                   Q.       Tracts 1 and 2.    And what is the basis  
25 for the disbursement?

1           A.       This is a well that we acquired from  
2 Chesapeake and Chesapeake initially force pooled May Sue  
3 Harris as unknown and unlocateable. They put money into  
4 escrow. They later found the Trustee, Mr. Kauble. They  
5 leased him and started paying him directly. We're  
6 just...we found that this money was in escrow. We're  
7 just trying to get it out to give it to him.

8           Q.       Just trying to clean this up. So, this  
9 will be...this will be...this is the only money that is  
10 in escrow for this unit, right?

11          A.       That's correct.

12          Q.       So, this will...if this disbursement...  
13 request for disbursement is approved, then the Board  
14 will be able to close the escrow for this unit?

15          A.       Correct.

16          Q.       And did we provide an exhibit which we're  
17 now going to call Exhibit 1-A to show our calculation  
18 and reconciliation between the bank and  
19 Chesapeake's/Range's figures?

20          A.       I have no figures because we hadn't paid  
21 any money into escrow. So, this is strictly the bank's  
22 figures.

23          Q.       So, okay, you don't have any  
24 reconciliation?

25          A.       No.

1 Q. This is just what's in the bank. And we  
2 provided this exhibit to show what's in there?  
3 A. Yes, as of 9/30/11.  
4 Q. That's as of 9/30. And who should  
5 receive this disbursement?  
6 A. Michael Kauble, Trustee of the May Sue  
7 Harris Trust.  
8 Q. And you say that they're already on an  
9 ongoing basis have been paid directly?  
10 A. That's correct.  
11 Q. Okay.  
12 A. We're paying them directly.  
13 JIM KAISER: Okay. Nothing further of this  
14 witness at this time, Mr. Chairman.  
15 SHARON PIGEON: Did you say you have no figures  
16 because this was Chesapeake, all of this---?  
17 PHIL HORN: We're not making any payments into  
18 this account. We found out when you all sent us a list  
19 of all of the wells that we had...that had escrow in it  
20 and we determined then that we were not paying into the  
21 account. We checked into it and found out why.  
22 SHARON PIGEON: But what I'm saying is the money  
23 that's there was paid into escrow originally by  
24 Chesapeake?  
25 PHIL HORN: Yes.

1                   BUTCH LAMBERT: And this will close the account?  
2                   PHIL HORN: Yes, sir.  
3                   BUTCH LAMBERT: Any other questions from the  
4 Board?  
5                   (No audible response.)  
6                   BUTCH LAMBERT: Anything further, Mr. Kaiser?  
7                   JIM KAISER: We'd ask that the application be  
8 approved as submitted, Mr. Chairman.  
9                   BUTCH LAMBERT: Do I have a motion?  
10                  MARY QUILLEN: Motion to approve.  
11                  BRUCE PRATHER: Second.  
12                  BUTCH LAMBERT: I have a motion and a second.  
13 Any further discussion?  
14                  (No audible response.)  
15                  BUTCH LAMBERT: All in favor, signify by saying  
16 yes.  
17                  (All members signify by saying yes.)  
18                  BUTCH LAMBERT: Opposed, no.  
19                  (No audible response.)  
20                  BUTCH LAMBERT: Thank you, Mr. Kaiser. It's  
21 approved.  
22                  JIM KAISER: Thank you.  
23                  BUTCH LAMBERT: We're calling docket item number  
24 twenty-three. The Board on its own motion will receive  
25 testimony from CNX and T. Shea Cook concerning a final

1 order of the Court concerning Gary Davis, et al versus  
2 CNX Gas Company, LLC and Coal Mountain Mining, LLP,  
3 docket number VGOB-96-1024-0524 and 97-0318-0573. The  
4 parties wishing to testify, please come forward.

5 MARK SWARTZ: Mark Swartz and Anita Duty.  
6 Anita, tells me that Mr. Cook has some things that he  
7 needed to accomplish that he hasn't. So, that's why we  
8 haven't filed a petition. I mean, we understand that  
9 we're supposed to, but we've been unable to do that.  
10 So, this needs to be continued.

11 ANITA DUTY: We didn't know what that was for  
12 really.

13 BUTCH LAMBERT: Okay.

14 ANITA DUTY: We weren't sure.

15 BUTCH LAMBERT: You all haven't seen the Court  
16 order?

17 ANITA DUTY: Yes.

18 BUTCH LAMBERT: You have?

19 ANITA DUTY: But we had...there was some issues  
20 that we've been emailing him back and forth asking him  
21 to clear up and he still hasn't. So---.

22 (Sharon Pigeon confers with Butch Lambert.)

23 BUTCH LAMBERT: Okay. So, we will continue it.

24 MARK SWARTZ: I think...thirty days or just---?

25 ANITA DUTY: Well, the filing date for

1 next...for the next month's hearing is this Friday.  
2 Right now there's an outstanding affidavit of heirship  
3 that I need from him.

4 BUTCH LAMBERT: We'll continue it until January.

5 MARK SWARTZ: Okay. Great.

6 BUTCH LAMBERT: Item twenty-four, the Board on  
7 its own motion will consider a proposal from the  
8 horizontal drilling committee established by the Board  
9 from an order establishing field rules for horizontal  
10 drilling in Southwest Virginia. This is docket item  
11 VGOB-11-0816-2986. That item will be continued until  
12 December.

13 MARK SWARTZ: And we're going to withdraw item  
14 twenty-five.

15 BUTCH LAMBERT: Docket item twenty-five, a  
16 petition from CNX Gas Company, LLC for repooling of  
17 coalbed methane unit AV-110, docket number VGOB-01-0320-  
18 0870-03 will be withdrawn. Let me back up to docket  
19 item number twenty-four again and restate what we said  
20 there. This item will be continued in order not to hear  
21 the report from the committee, but we will be voting on  
22 that proposed rule in December. Okay, we're calling  
23 docket item twenty-six. A petition from CNX Gas  
24 Company, LLC for pooling of coalbed methane unit B-52,  
25 docket number VGOB-11-0920-2987. All parties wishing to



1     testifying, please come forward.

2                 MARK SWARTZ: Mark Swartz and Anita Duty.

3                 BUTCH LAMBERT: You may proceed, Mr. Swartz.

4

5                                 ANITA DUTY

6     having been duly sworn, was examined and testified as  
7     follows:

8                                 DIRECT EXAMINATION

9     QUESTIONS BY MR. SWARTZ:

10                 Q.     Would you state your name for us, Anita?

11                 A.     Anita Duty.

12                 Q.     Okay. Now, this is different. Up to now  
13     we've basically been dealing with requests for  
14     disbursements, correct?

15                 A.     Correct.

16                 Q.     Do you also have some employment  
17     responsibilities with regard to pooling?

18                 A.     Yes.

19                 Q.     And is it part of your duties that you're  
20     charged with the responsibility of preparing or  
21     supervising the preparation of notices of hearing,  
22     pooling applications and the related exhibits?

23                 A.     Yes.

24                 Q.     And did you assist in and direct the  
25     preparation of this application?

1 A. Yes.

2 Q. And it seeks to pool what unit?

3 A. B-52.

4 Q. And what kind of a unit is that?

5 A. An Oakwood.

6 Q. Okay. But it is not an 80 acre Oakwood,

7 right?

8 A. Right.

9 Q. How many acres is it?

10 A. 64.55.

11 Q. And that's because part of this unit is

12 actually where?

13 A. At the West Virginia state line.

14 Q. It's in West Virginia, right? Part of it

15 is in West Virginia?

16 A. Yeah, yeah. Sorry.

17 Q. And this Board, as much as they would

18 like to exercise jurisdiction in West Virginia can not

19 apparently not?

20 A. Right.

21 Q. Okay. All right. So, that's the reason

22 why this isn't an 80 acre unit?

23 A. That is.

24 Q. And how many wells are proposed?

25 A. One.

1 Q. And is that---?

2 A. Two.

3 Q. Okay. And are those two wells within the

4 drilling window?

5 A. Yes.

6 Q. Okay. And then we're going to come back

7 to the cost of those wells and so forth. But what did

8 you do to tell people that...who might be affected by

9 this pooling application that there was going to be a

10 hearing today?

11 A. Mailed by certified mail, return receipt

12 requested on August the 19th, 2011. I published the

13 notice and location map in the Bluefield Daily Telegraph

14 on August the 24th, 2011.

15 Q. Okay. And have you provided Mr. Cooper

16 with copies of your certificates of mailing and the

17 proof of publication?

18 A. I will.

19 Q. Okay. You've got them with you?

20 A. Yes.

21 Q. Okay. And when you published in the

22 newspaper, what appeared in the paper?

23 A. The notice and location map.

24 Q. Okay. And the...have you listed all of

25 the respondents that you're seeking to pool in both your

1 notice and your Exhibit B-3?

2 A. Yes.

3 Q. Do you want to add anymore respondents?

4 A. No.

5 Q. Do you want to dismiss any of them?

6 A. No.

7 Q. Okay. And have you provided the Board

8 with an indication of the interest that you're

9 seeking...the interest that the respondents hold that

10 you're seeking to pool?

11 A. Yes.

12 Q. And what is that?

13 A. We have leased 100% of the coal owner's

14 claim and 94.9225% of the oil and gas owner's claim. We

15 are seeking to pool 5.0775% of the oil and gas owner's

16 claim to CBM.

17 Q. And the two wells that are proposed for

18 this unit, have you provided the Board with cost

19 estimates for those wells?

20 A. Yes.

21 Q. Okay. Let's take the B-52 well first.

22 What's the permit number for that one?

23 A. 11863.

24 Q. Okay. And what's the depth?

25 A. 2,612 feet.

1 Q. And the estimated cost?  
2 A. \$349,018.17.  
3 Q. And then do you have a similar estimate  
4 with regard to B-52A?  
5 A. Yes. \$378,192.29.  
6 Q. And do you have a permit for that?  
7 A. Yes. It's 11793.  
8 Q. And the estimated total depth of that  
9 well?  
10 A. 2,675 feet.  
11 Q. And is escrow required in this unit?  
12 A. For Tract 4.  
13 Q. Okay. And have you provided the Board  
14 with an Exhibit E that identifies the owners and  
15 claimants in Tract 4 whose funds need to be escrowed?  
16 A. Yes.  
17 Q. And the reason for the escrow appears to  
18 be just a straightforward conflict between coal, oil and  
19 gas?  
20 A. Yes.  
21 Q. Are there any split agreements in this  
22 unit?  
23 A. No.  
24 Q. Okay. Is it your opinion that drilling  
25 two coalbed methane gas wells and...these are both frac

1 wells, correct?

2 A. They are.

3 Q. And fracing them within the...at the  
4 location shown on your plat map is a reasonable way to  
5 develop the coalbed methane resource from and within  
6 this unit?

7 A. Yes.

8 Q. And is it your further opinion that if  
9 you combine a pooling order pooling the respondents  
10 named in the application with the folks whose interests  
11 you have been able to reach agreements that the claims  
12 and the...the ownership claims and contentions of all  
13 people with regard to revenue associated with these two  
14 wells will be protected?

15 A. Yes.

16 MARK SWARTZ: That's all I have, Mr. Chairman.

17 BUTCH LAMBERT: Any questions from the Board?

18 SHARON PIGEON: Is our B-3 complete? There's  
19 something about it that just don't look...we usually get  
20 a total or something. I mean, it's one page. This B-3  
21 just doesn't look complete to me for some reason. Maybe  
22 it has been so long since I've seen a pooling request  
23 today. Don't we usually have totals on that page that  
24 we---.

25 ANITA DUTY: I don't see anything---.

1           SHARON PIGEON: Don't we usually get totals on  
2 our B-3?  
3           ANITA DUTY: Total...not from us. I think  
4 Equitable does that.  
5           SHARON PIGEON: Okay. All right.  
6           ANITA DUTY: GeoMet, I think they do it too.  
7           SHARON PIGEON: All right. All right. Thank  
8 you.  
9           ANITA DUTY: We have an Exhibit A, page two  
10 where total ours. The page before.  
11           BUTCH LAMBERT: Any other questions from the  
12 Board?  
13           (No audible response.)  
14           BUTCH LAMBERT: Anything further, Mr. Swartz?  
15           MARK SWARTZ: No.  
16           BUTCH LAMBERT: Do I have a motion?  
17           MARY QUILLEN: Motion to approve.  
18           BRUCE PRATHER: Second.  
19           BUTCH LAMBERT: I have a motion and a second.  
20 Any further discussion?  
21           (No audible response.)  
22           BUTCH LAMBERT: All in favor, signify by saying  
23 yes.  
24           (All members signify by saying yes, but Katie  
25 Dye.)

1	<u>BUTCH LAMBERT</u> : Opposed, no.
---	-------------------------------------

2 KATIE DYE: I'll abstain,

3                    BUTCH LAMBERT: One abstention Mrs. Dye. Mr.  
4 Swartz, I'd like to backup to docket item twenty-six.  
5 We're all moving a little slow here today. I'm not sure  
6 what's going on with us, but---

7 MARK SWARTZ: Okay.

8                    BUTCH LAMBERT:     ---did you...Anita, did you  
9 testify to the terms?

10 ANITA DUTY: I did not. Mark, forgot to ask me.

11 MARK SWARTZ: Yeah, it's my fault.

12 BUTCH LAMBERT: Okay.

13 MARK SWARTZ: Well, we probably need to do that.

14 BUTCH LAMBERT: Okay. Could you---

15

16 ANITA DUTY

17 having been duly sworn, was examined and testified as  
18 follows:

19 DIRECT EXAMINATION RESUMES

20 QUESTIONS BY MR. KAISER:

21 Q. Anita, with regard to B-52 and other  
22 units, could you inform the Board as to the lease terms  
23 that your employer customarily offers for coalbed  
24 methane leases?

25 A. It's five dollars per acre per year with



1 a five year paid up term and a one-eighth royalty.

2 Q. And would you recommend those terms to  
3 the Board with regard to B-52 and other units that we're  
4 going to get to with regard to the terms to be included  
5 for people who may be deemed to have been leased?

6 A. Yes.

7 MARK SWARTZ: That's all I have, Mr. Chairman.

8 BUTCH LAMBERT: Thank you.

9 MARK SWARTZ: Thank you.

10 SHARON PIGEON: And you did testify to election  
11 options?

12 MARK SWARTZ: No. We never testify to that.

13 SHARON PIGEON: Not even referring to the  
14 statute?

15 MARK SWARTZ: No.

16 SHARON PIGEON: Okay.

17 MARK SWARTZ: Sorry.

18 ANITA DUTY: That's Equitable.

19 MARK SWARTZ: Well, it's in our pleadings. So,  
20 we don't repeat that. I try to give you the stuff  
21 that's different as opposed to always the same. But if  
22 you want us to, you know, we can---.

23 SHARON PIGEON: I'm happy to be done with you,  
24 Mr. Swartz.

25 MARK SWARTZ: Okay. Okay, that's cool. Good.

1 All right.

2 BUTCH LAMBERT: Okay. We're calling  
3 docket...excuse me, docket item twenty-seven. A  
4 petition from CNX Gas Company, LLC for pooling of  
5 coalbed methane unit YYY-33, docket number VGOB-11-0920-  
6 2988. All parties wishing to testify, please come  
7 forward. You may proceed, Mr. Swartz.

8 MARK SWARTZ: Mark Swartz and Anita Duty on YYY-  
9 33.

10 BUTCH LAMBERT: You may proceed.

11

12 ANITA DUTY

13 having been duly sworn, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Anita, would you state your name for us,  
18 please?

19 A. Anita Duty.

20 MARK SWARTZ: I would like to incorporate  
21 Anita's prior testimony with regard to her employment  
22 responsibilities, with regard to pooling applications  
23 and her testimony with regard to standard lease terms.

24 BUTCH LAMBERT: Accepted.

25 MARK SWARTZ: Thank you.

1 Q. In...with regard to this application,  
2 this is a pooling application, correct?  
3 A. Yes.  
4 Q. Involving what unit?  
5 A. YYY-33.  
6 Q. And what kind of unit is that?  
7 A. An Oakwood 80.  
8 Q. Okay. And this one when we refer to the  
9 map, it actually is a full size Oakwood 80 unit,  
10 correct?  
11 A. It is.  
12 Q. And how many wells are proposed for this  
13 unit?  
14 A. Just one.  
15 Q. Which one?  
16 A. YYY-33.  
17 Q. Okay. There's YYY-33A, but that's not in  
18 this application?  
19 A. We removed it in the revisions. We  
20 revised the plat to take that well off.  
21 Q. Okay. And is that the only change when  
22 you compare the plats?  
23 A. And we also revised it to the show  
24 surface Tracts 4A and 4B.  
25 Q. Okay. So, there are three changes. You

1 got rid of a well and you added some surface tracts that  
2 are depicted on the revised exhibit?

3 A. That's correct.

4 Q. Okay. With regard to this pooling  
5 application for YYY-33, what did you do to advise the  
6 folks that are listed as respondents that there would be  
7 a hearing today?

8 A. Mailed by certified mail, return receipt  
9 requested on August the 19th, 2011. I published the  
10 notice and location map in the Bluefield Daily Telegraph  
11 on August the 24th, 2011.

12 Q. And when it was published in the  
13 newspaper, what appeared in the paper?

14 A. The notice and location map.

15 Q. And have you or are you about to provide  
16 copies of your certificates with regard to mailing and  
17 your certificate of publication to Mr. Cooper?

18 A. Yes.

19 Q. Okay. Do you want to add any respondents  
20 to the list?

21 A. No.

22 Q. Do you want to dismiss any?

23 A. With...there's an exhibit---.

24 Q. Right. So, the answer is yes?

25 A. Yes.

1 Q. Okay. Now, when we look at...when we  
2 look at the revised exhibits, okay, in addition---.

3 A. Yes.

4 Q. ---to the revised plat, which we've  
5 already discussed the revisions to the plat, there are a  
6 number of exhibits that needed to be revised. My first  
7 question for you is why?

8 A. For leases.

9 Q. Okay. So, lets start with Exhibit B-2  
10 and on Exhibit B-2, have you identified folks that you  
11 have...you're asking be dismissed because you have  
12 obtained leases?

13 A. Yes.

14 Q. Okay. And then are the revisions to  
15 Exhibit B-3 and E and Exhibit A, page two and the tract  
16 IDs as a result of those additional leases?

17 A. It is.

18 Q. Okay. So, the...what happened here is  
19 when you...after you filed this petition with the Board,  
20 you were able to lease some of the respondents and so  
21 now have a shorter list?

22 A. That's correct.

23 Q. Okay. And the folks that you need to  
24 remain as respondents and be pooled today are people  
25 that are listed on the revised Exhibit B-3 as

1 respondents, is that correct?

2 A. Yes.

3 Q. So, your list of respondent...parties  
4 respondent that need to be pooled as a result of a  
5 pooling order that will hopefully be entered in this  
6 case, are those people listed in the five pages of  
7 revised Exhibit B-3, revised as of October the 6th,  
8 2011?

9 A. Yes.

10 Q. And by leasing additional acreage and  
11 people, did you then change the percentage of interest  
12 from what you initially thought you would need to pool?

13 A. Yes.

14 Q. And have you provided the Board with an  
15 Exhibit A, page two that recaps where we are now?

16 A. I have.

17 Q. Okay. And what interest are outstanding  
18 and need to be pooled in this unit?

19 A. 12.4348% of the coal owner's claim to CBM  
20 and 20.3442% of the oil and gas owner's claim to CBM.

21 Q. And we've already talked about the fact  
22 that this...that there is one well proposed for this  
23 unit---?

24 A. Yes.

25 Q. ---and that's a frac well?

1 A. It is.

2 Q. Okay. And in the original application,  
3 did you provide a cost estimate for that well?

4 A. Yes. It is \$354,231.57.

5 Q. Okay. And do you have a permit for that  
6 well?

7 A. 12175.

8 Q. And the proposed depth?

9 A. 2,069 feet.

10 Q. And we have a revised Exhibit E. So, I'm  
11 gathering there's an escrow requirement, correct?

12 A. Yes.

13 Q. And the basic reasons for escrow are?

14 A. Just normal CBM conflicts.

15 Q. The conflict between the oil and gas and  
16 coal owners?

17 A. Yes.

18 Q. Okay. Do you have any split agreements  
19 in this unit?

20 A. We do not.

21 Q. Okay. Is it your opinion that drilling  
22 one frac well...this is a frac well, correct?

23 A. It is.

24 Q. That the location shown on your well plat  
25 is a reasonable way to develop the coalbed methane

1 resource from within this unit?

2 A. Yes.

3 Q. And is it your further opinion that if  
4 you combine a pooling order pooling the folks named in  
5 the revised Exhibit B-3 with the folks that you have  
6 been able to contract with, the correlative rights of  
7 all owners and claimants would be protected in this  
8 unit?

9 A. Yes.

10 MARK SWARTZ: I believe that's all I have, Mr.  
11 Chairman.

12 BUTCH LAMBERT: Any questions from the Board?

13 MARY QUILLEN: Mr. Chairman.

14 BUTCH LAMBERT: Ms. Quillen.

15 MARY QUILLEN: Did you say that there was a cost  
16 estimate in the original application?

17 ANITA DUTY: Yes.

18 MARY QUILLEN: We've got the cost estimate over  
19 here in the application but no copy of the AFE.

20 MARK SWARTZ: You need to take that out. Are  
21 you the only one who is missing it or are all of you  
22 missing it?

23 ANITA DUTY: Are you missing it?

24 MARK SWARTZ: I don't have one. It's not in  
25 here.



1           BUTCH LAMBERT: We don't have it.  
2           MARK SWARTZ: Okay. Well, we'll give it...we  
3 will give you the original one.  
4           ANITA DUTY: Do you all have it (inaudible)?  
5           MARK SWARTZ: I just need a copy back of this.  
6 But this is the original.  
7           ANITA DUTY: Well, this is a scan.  
8           MARK SWARTZ: This is a scan?  
9           ANITA DUTY: Uh-huh.  
10          MARK SWARTZ: Okay. All right.  
11          ANITA DUTY: Do you want me to give it to you?  
12          MARY QUILLEN: No. Do you have one?  
13          RICK COOPER: No.  
14          MARY QUILLEN: Okay.  
15          SHARON PIGEON: If you will give me a copy of  
16 that. Ms. Duty, you testified that your Exhibit E  
17 reflects the traditional conflicting claims, but there  
18 are unknown and unlocateables in this escrow as well,  
19 correct?  
20          ANITA DUTY: Yes, there is for Tracts 1 and 2.  
21 Yes.  
22          BUTCH LAMBERT: Any other questions from the  
23 Board?  
24                (No audible response.)  
25          BUTCH LAMBERT: Anything further, Mr. Swartz?

1           BRUCE PRATHER: I've just got a comment.  
2           BUTCH LAMBERT: Oh, I'm sorry. Mr. Prather.  
3           BRUCE PRATHER: On your plat, whoever made up  
4 your plat put a dry hole symbol on your well. So, I  
5 assume it's not a dry hole.  
6           ANITA DUTY: Probably didn't realize that.  
7           BUTCH LAMBERT: Any other questions from the  
8 Board?  
9           (No audible response.)  
10          BUTCH LAMBERT: Anything further, Mr. Swartz?  
11          MARK SWARTZ: No.  
12          BUTCH LAMBERT: Do I have a motion?  
13          MARY QUILLEN: Motion to approve.  
14          BRUCE PRATHER: Second.  
15          BUTCH LAMBERT: I have a motion and a second.  
16 All in favor, signify by saying yes.  
17          (All members signify by saying yes, but Katie  
18 Dye.)  
19          BUTCH LAMBERT: Opposed, no.  
20          KATIE DYE: One abstention Mrs. Dye.  
21          MARY QUILLEN: Anita, you will send them the  
22 revised plat.  
23          ANITA DUTY: With the new symbol?  
24          MARY QUILLEN: Uh-huh.  
25          ANITA DUTY: If you want me to, yes.

1                   MARY QUILLEN: Please.  
2                   BRUCE PRATHER: White it out.  
3                   ANITA DUTY: You might see that more than once.  
4 He has probably done that for all of them.  
5                   BRUCE PRATHER: Use whiteout.  
6                   ANITA DUTY: Yes or no. Do you want me to?  
7                   BUTCH LAMBERT: (Indicates in the negative.)  
8 We're calling docket item twenty-eight. A petition from  
9 CNX Gas Company, LLC for repooling of coalbed methane  
10 unit AX-118. This is docket number VGOB-03-0715-1160-  
11 01. All parties wishing to testify, please come  
12 forward.  
13                   (Exhibits are passed out.)  
14                   BUTCH LAMBERT: You may proceed, Mr. Swartz.  
15                   MARK SWARTZ: Thank you. Mark Swartz and Anita  
16 Duty.  
17  
18                                   ANITA DUTY  
19 having been duly sworn, was examined and testified as  
20 follows:  
21                                   DIRECT EXAMINATION  
22 QUESTIONS BY MR. SWARTZ:  
23                   Q. Anita, state your name for us, please.  
24                   A. Anita Duty.  
25                   Q. Okay. This is a repooling?

1 A. Yes.

2 Q. Okay. Pertaining to what unit?

3 A. AX-118.

4 MARK SWARTZ: I'd like to incorporate Anita's

5 testimony with regard to her job responsibilities

6 concerning pooling and her testimony with regard to

7 standard lease terms, although since this has already

8 been pooled I assume that's in the record, but just to

9 be careful.

10 BUTCH LAMBERT: Accepted.

11 Q. This is a repooling for what reason?

12 A. The Commonwealth of Virginia there's a

13 road that goes to that unit, it has been remapped.

14 Q. Okay. And is that the road that has the

15 block 3H and a bunch of arrows to the road?

16 A. Yes.

17 Q. Okay. And in remapping that road you had

18 some percentages changes I take it?

19 A. It was actually shown as surface prior

20 and now it's surface, oil and gas. We've had that a lot

21 lately.

22 Q. Okay. So, the reason for repooling is to

23 catch the oil and gas interest under the road?

24 A. Yes.

25 Q. Okay. And who is the owner of that

1 interest under the road?

2 A. The Commonwealth of Virginia.

3 Q. Okay. I just wanted---.

4 A. Yes.

5 Q. ---to make sure it was on the record.

6 And so the Commonwealth should they elect to do so could

7 become a partner in this well, is that the point of

8 this?

9 A. They could.

10 Q. Okay. And have you provided the Board

11 with a...with some revised exhibits and do you want to

12 dismiss any of the respondents that you originally

13 named?

14 A. Yes.

15 Q. And who would that be?

16 A. Geraldine Whited.

17 Q. And what's the reason for the dismissal?

18 A. She's leased.

19 Q. Okay. And as...do you want to revise

20 Exhibit B-3 showing the people that you need to pool?

21 A. Yes.

22 Q. Okay. And have you removed her name from

23 that list?

24 A. Yes.

25 Q. And, obviously, you've added the

1 Commonwealth of Virginia for the reasons that we've  
2 already talked about?

3 A. Yes.

4 Q. What did you do to give the respondents  
5 notice that we would have a hearing today?

6 A. Mailed by certified mail, return receipt  
7 requested on August the 19th, 2011. I published in the  
8 Bluefield Daily Telegraph on August the 24th, 2011.

9 Q. And when you published, what appeared in  
10 the paper?

11 A. The notice and location map.

12 Q. And do you have copies of your  
13 certificates with regard to mailing and your proof of  
14 publication to file with Mr. Cooper?

15 A. Yes.

16 Q. Okay. This is a Middle Ridge unit?

17 A. It is.

18 Q. How many acres?

19 A. 58.74.

20 Q. Okay. And you previously when this unit  
21 was originally pooled there's testimony in the record  
22 with regard to both of the wells, correct?

23 A. There should be.

24 Q. Okay. And you provided the cost  
25 estimates at that point and you've reprovided them,

1 correct?

2 A. Yes.

3 Q. Okay. And is the only party that would

4 need an election here the Commonwealth?

5 A. Yes.

6 Q. Okay. Is there an es

7 crow requirement?

8 A. There is for Tracts 5 and it also has a

9 title conflict in Tract 6B.

10 Q. Okay. And are there any split

11 agreements?

12 A. Yes, 6A.

13 MARK SWARTZ: That's all I have, Mr. Chairman.

14 BUTCH LAMBERT: Any questions from the Board?

15 (No audible response.)

16 BUTCH LAMBERT: Anything further, Mr. Swartz?

17 Q. Actually just to supplement the record,

18 the interest that we're talking about that's associated

19 with the Commonwealth is what percentage?

20 A. 1.1917%.

21 Q. And that's really the reason we're here

22 today?

23 A. Yes.

24 MARK SWARTZ: That's all I have, Mr. Chairman.

25 BUTCH LAMBERT: Do I have a motion?

1                   MARY QUILLEN: Motion to approve  
2                   BRUCE PRATHER: Second.  
3                   BUTCH LAMBERT: I have a motion and a second.  
4 Any further discussion?  
5                   (No audible response.)  
6                   BUTCH LAMBERT: All in favor, signify by saying  
7 yes.  
8                   (All members signify by saying yes, but Katie  
9 Dye.)  
10                  BUTCH LAMBERT: Opposed, no.  
11                  KATIE DYE: I'll abstain.  
12                  BUTCH LAMBERT: One abstention Mrs. Dye. Thank  
13 you, Mr. Swartz. That's approved. Docket item twenty-  
14 nine is a petition from CNX Gas Company, LLC for the  
15 creation of a 320 acre horizontal conventional drilling  
16 unit and pooling for 00029SH. This is docket number  
17 VGOB-11-1018-2995. All parties wishing to testify,  
18 please come forward.  
19                  MARK SWARTZ: Mark Swartz and Anita Duty. Mr.  
20 Chairman, if you could combine...we actually have three  
21 of these kinds of issues on the docket today. Rather  
22 than having Ian testify three times I thought maybe we  
23 could possibly put them together. The other ones are  
24 docket item number thirty. The next docket item is also  
25 creating a 320 acre unit and then there is...and then



1 item thirty-three. We've got an issue with adding a leg  
2 to 320 acre unit. If you could put those together that  
3 would be great.

4 BUTCH LAMBERT: Sure. Also calling docket item  
5 number thirty, a petition from CNX Gas Company, LLC for  
6 the creation of a 320 acre horizontal conventional  
7 drilling unit and pooling for VVV29SH, docket number  
8 VGOB-11-1018-2996. We're calling docket item thirty-  
9 three. A petition from CNX Gas Company for the  
10 modification of order for production from borehole of  
11 110SH to allow for a second horizontal well and a  
12 location exception for the second well. It's docket  
13 number VGOB-11-0719-2972-01.

14 MARK SWARTZ: Thank you, Mr. Chairman. Also,  
15 with regard to those it would be Mark Swartz, Anita Duty  
16 and Ian Lucas.

17 (Ian Lucas is duly sworn.)

18

19 ANITA DUTY

20 having been duly sworn, was examined and testified as  
21 follows:

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. SWARTZ:

24 Q. Okay, Anita, let's...let's start with  
25 docket item number twenty-nine, Anita. That is a two-

1 part request. On the one hand it's to create a unit and  
2 on the other it's to pool it, correct?

3 A. Yes.

4 Q. And this is a horizontal unit. So, it  
5 involves conventional gas, I believe.

6 A. Yes.

7 Q. Okay. What did you do to notify the  
8 respondents that we would have a hearing today?

9 A. Mailed by certified mail, return receipt  
10 requested on September the 16th, 2011. Published in the  
11 Bluefield Daily the notice and location map on September  
12 the 26th, 2011.

13 Q. And when you published it in the paper,  
14 what appeared in the paper?

15 A. The notice and location map.

16 Q. And have you filed or are you about to  
17 file your certificates with regard to mailing and your  
18 proof of publication with Mr. Cooper?

19 A. Yes.

20 Q. The amount...the percentage of the oil  
21 and gas interest that the operator has leased here is  
22 what percent?

23 A. 99.9343%.

24 Q. And the percent that you're seeking to  
25 pool by the application?

1 A. 0.0657%.

2 Q. And as is typical in the conventional gas  
3 setting, we're not talking about escrow here, correct?

4 A. Correct.

5 Q. Have you provided the Board with an  
6 estimate with regard to this horizontal well?

7 A. Yes. \$1,538,889.

8 Q. And you don't have a permit yet?

9 A. No.

10 Q. And Mr. Lucas is going to talk further  
11 about the well, correct?

12 A. Yes.

13 Q. Okay. The...do you want to add any  
14 respondents today?

15 A. No.

16 Q. Do you want to dismiss any of these  
17 respondents?

18 A. No.

19 Q. Okay. Have you provided the Board with a  
20 plat of this proposed 380...320 acre unit that you're  
21 proposing to create?

22 A. Yes.

23 Q. And does this plat have a drilling  
24 window?

25 A. It does.

1 Q. And is the intention to...although the  
2 leg starts at the northeast corner of the...is it the  
3 intention to not produce from the window area and  
4 commence production once you get into not produce from  
5 the offset area but only produce from the window area?

6 A. Yes.

7 Q. Okay. The 320 acre proposed unit is  
8 actually a conglomeration of four 80 acres that are  
9 shown on Exhibit A-1, correct?

10 A. Correct.

11 Q. And you're putting together four Oakwoods  
12 to equal this unit?

13 A. Yes.

14 Q. Okay. And then if you go to the  
15 application you have as required also in addition to  
16 providing information with the Oakwood units that have  
17 been combined to make up these 380s...380 you've given a  
18 boundary description using the State plain coordinates  
19 system of the perimeter of this unit?

20 A. Yes.

21 Q. Okay. And in your application you  
22 indicated that it was 320 acres, is that correct?

23 A. It is.

24 MARK SWARTZ: I'd like to incorporate Anita's  
25 testimony with regard to her job responsibilities

1 concerning pooling issues.

2 Q. Anita, my question for you since the  
3 previous unit involve coalbed methane, what are the  
4 standard lease terms that to these...obviously, you've  
5 leased like 98% or 99% of this unit.

6 A. Yes.

7 Q. What are the lease terms that you have  
8 offered to the folks that you have been able to lease  
9 with?

10 A. They are still the five dollars per acre  
11 year with the five year paid up term and a one-eighth  
12 royalty.

13 Q. And would that be your recommendation to  
14 the Board with regard to this unit in the event that  
15 ever became necessary?

16 A. Yes.

17 MARK SWARTZ: Okay. I'd like to...that's all I  
18 have of Anita. I want to shift again. Maybe there are  
19 questions for her perhaps.

20 BUTCH LAMBERT: Any questions from the Board?

21 BILL HARRIS: Yeah.

22 BUTCH LAMBERT: Mr. Harris.

23 BILL HARRIS: There's one...one question. Mr.  
24 Swartz, I think when you were asking for responses of  
25 her testimony, I think you said the northeast corner.

1                   MARK SWARTZ: I may have, but it's northwest.  
2                   BILL HARRIS: North, okay. Okay, I just wanted  
3 to clarify that. Thank you.  
4                   BUTCH LAMBERT: Any other questions from the  
5 Board?  
6                   SHARON PIGEON: Just to...I didn't hear the  
7 terms very well. Five dollars an acre per year for a  
8 five year paid up term plus a one-eighth royalty. Is  
9 that what you testified to?  
10                  ANITA DUTY: Yes.  
11                  MARK SWARTZ: If there's nothing further for  
12 Anita, then I'd like to---.  
13                  BUTCH LAMBERT: I don't think they have any  
14 further questions for her.  
15                  MARK SWARTZ: Moving on to Ian.  
16  
17                                   IAN LUCAS  
18 having been duly sworn, was examined and testified as  
19 follows:  
20                                   DIRECT EXAMINATION  
21 QUESTIONS BY MR. SWARTZ:  
22                   Q. Ian, would you...would you state your  
23 name for us, please?  
24                   A. Ian Lucas.  
25                   Q. Who do you work for?

1 A. Consol Energy, Gas Operations.  
2 Q. What do you do for them?  
3 A. I'm a geologist.  
4 Q. Have you testified in front of this Board  
5 before?  
6 A. Yes, I have.  
7 Q. Have you prepared some exhibits?  
8 A. Yes, I have.  
9 Q. Does someone have enough copies?  
10 ANITA DUTY: They've got them.  
11 MARK SWARTZ: They've got them. Okay, you're  
12 good to go.  
13 ANITA DUTY: Yes.  
14 Q. This is a set of exhibits that we've  
15 looked at before, right?  
16 A. It is.  
17 Q. Okay. Let's turn to the unit map, okay.  
18 And what are you showing there?  
19 A. The intention here is to drill, as you  
20 pointed out earlier, from the northwest corner extending  
21 lateral to the southeast within the 320 acre unit.  
22 Q. Okay. And have you provided the Board  
23 with sort of a schematic of how this well would work?  
24 Is that, in fact, the next page?  
25 A. Yes. The next two pages.

1 Q. Okay. How many...how many well bores  
2 would be required to accomplish this?  
3 A. One.  
4 Q. Okay...and does that mean that you are  
5 actually able to turn to make the radius?  
6 A. Correct.  
7 Q. Okay. And are you showing on the plat  
8 the location at the surface of the well bore?  
9 A. Correct.  
10 Q. And then on your exhibit here does it  
11 come down and then begin to make a turn?  
12 A. Correct.  
13 Q. And is the turn occurring essentially in  
14 the offset area here?  
15 A. Correct.  
16 Q. What, if anything, are you required to do  
17 to keep the production within the window?  
18 A. We limit...one, our curve section would  
19 actually land within zone...you know, inside the window  
20 as well as our packer placement would be within the  
21 complete of the windows.  
22 Q. Okay. So, when you say your curves on,  
23 are you're saying your well bore will intercept the zone  
24 that you're seeking to produce from within the drilling  
25 window?



1           A.     Correct.     By the time we build our  
2 angles, we're approximately 700 foot plus from our  
3 starting location on a horizontal distance.

4           Q.     So, basically, you don't need to do  
5 anything because your well bore isn't in the offset?

6           A.     Correct.

7           Q.     Is there an intention to frac this type  
8 of well?

9           A.     Yes.

10          Q.     And you've indicated that...I believe in  
11 the next page, which you've entitled typical exploration  
12 horizontal design, is that correct?

13          A.     Correct.

14          Q.     Okay. And tell the Board what this shows  
15 in relation to what you're...what you're proposing for  
16 this well?

17          A.     What this diagram is designed to do is  
18 just show from the vertical well placement, you know,  
19 once we set our casing program, which we actually set  
20 through the Big Lime currently with our seven inch in  
21 our immediate string. We will drill to our kick off,  
22 which typically is about 750 foot above our target zone  
23 to which we build angle landing horizontally within the  
24 target zone here in the Lower Huron. Then we proceed to  
25 drill the horizontal leg to the assigned distance

1 usually either to the end of a lease line and/or  
2 assigned drilling window.

3 Q. And then at the bottom at the target  
4 formation, and here you've got the Lower Huron as your  
5 target, you're showing packers and sleeves and so forth,  
6 is that...are those mechanisms that you use to frac  
7 these wells?

8 A. That is correct. Based on the nature of  
9 these shale reservoirs being under pressured and quite  
10 dry we actually use what we consider an open hole packer  
11 port system so that we gas frac these versus setting  
12 your standard casing and cementing it.

13 Q. And in terms of gas frac, let's talk  
14 about that for a minute. There's...just to use the  
15 Marcellus as an example, where there are water disposal  
16 and water issues, correct?

17 A. Correct.

18 Q. Are you going to be using or proposing to  
19 use any water at all in fracing this well?

20 A. No.

21 Q. So, when you said gas you meant it,  
22 you're not using water?

23 A. Correct. It's straight nitrogen.

24 Q. And is there anything mixed in terms of a  
25 sand or other substance with the nitrogen?

1                   A.       No.

2                   Q.       Okay.  So, it's just gas?

3                   A.       Correct.

4                   Q.       And to recover that gas, it simply

5 eventually finds its way out of the well bore, I would

6 assume?

7                   A.       Correct.  Flow back procedure.

8                   Q.       Okay.  And then you've got a summary of a

9 unit proposal.  Let's spend a moment with the page that

10 has the 60 acres combined and the 80 acres combined to

11 get to a 320.  This is a topic the design of horizontal

12 units, which we spent a fair amount of time debating and

13 thinking about over the last I'm guessing year at least,

14 correct?

15                   A.       Correct.

16                   Q.       Have you actually participated in the

17 committee that has come up with a proposal?

18                   A.       I am a member.

19                   Q.       Okay.  And ultimately the intention is,

20 hopefully, that the Board will approve a standardized

21 mythology for sizing these unit?

22                   A.       Correct.

23                   Q.       And solution that we have employed for

24 this unit and we will be talking about and two more

25 today has been the temporary solution until we have a

1 permanent solution?

2 A. That is correct.

3 Q. And that temporary solution has simply to  
4 combine four 80 acre units or other units to get the  
5 acreage?

6 A. Yes.

7 Q. And actually we're going to be talking  
8 about two other units that are three 20 acre units.

9 A. Yes.

10 Q. Okay. And then lastly...well, let's just  
11 spend a moment with regard to some of the benefits  
12 because it has been a while. What are some of the  
13 benefits of horizontal wells as opposed to vertical  
14 wells?

15 A. Primarily a smaller footprint on the  
16 surface as well as maximum depletion of our reservoir  
17 from a single well bore. That also can benefit the  
18 mining for the same...same reasons. You have a single  
19 vertical penetration versus the chance of multiple,  
20 four, five or six possibly.

21 Q. It's less in the way?

22 A. Correct.

23 Q. Okay. And then we've seen, I think, this  
24 reservoir estimate chart before and what are you  
25 estimating as a recoverable reservoir with regard to a

1 well such as this one?

2 A. Depending on which recoverable we apply  
3 between 300 and 680 million cubic feet of gas with a 20%  
4 rf. If it's a 30%, it's 450 to 1 bcf.

5 Q. And, obviously, until you get in there  
6 you really can't...can't tell if it's going to be one or  
7 the other or somewhere in between?

8 A. Right. Until you're at the ultimate end  
9 of your reservoir produceability.

10 Q. Okay. We have been back and forth some  
11 with regard to these kinds of units and horizontal  
12 wells. My question is, do you have some data now that  
13 is independent of the reserve studies that we've been  
14 using to suggest what the actual performance of these  
15 wells has been?

16 A. We do. But it's still quite limited just  
17 due to the fact that the drilling and completion of  
18 these wells is well ahead of our pipelining,  
19 unfortunately. So, we're still waiting on the ability  
20 to tie these online so that we can start basically  
21 production matching our model to our actuals. So, we  
22 have quite a few wells drilled now through the last  
23 year, but we haven't quite caught up with our pipelines.  
24 So, we do have some data, which is showing a type of  
25 curve matching what our model shows. But it is limited

1 at this point.

2 Q. So, until you have production you're  
3 really not going to be able to generate reliable data to  
4 really see if you're matching the curve or departing  
5 from it?

6 A. Correct.

7 Q. And this...and then coming back to the  
8 reserve estimates that you've used, the final page of  
9 your exhibit, where did those estimates come from? What  
10 did you use for that data?

11 A. These reserves estimates are based on any  
12 outside data available, public knowledge.

13 Q. So, it's a collection of things?

14 A. Correct.

15 Q. Did you actually prepare this bell curve?

16 A. No, sir.

17 Q. Okay. Who did that?

18 A. These are provided to me by our reservoir  
19 engineering department.

20 Q. Okay. Let's take a look at the next unit  
21 while I have you here and then we'll come back to Anita  
22 with regard to the notice and so forth. But let's look  
23 at the VVV29SH, okay. Have you prepared essentially the  
24 same set of slides?

25 A. Yes.

1           Q.     And the difference though would be with  
2 regard to the...to the extent there is a difference, the  
3 location of the proposed horizontal leg within this  
4 unit?

5           A.     Correct.

6           Q.     And we've got, it looks like, again, if I  
7 can get my directions rights, it looks like we're  
8 starting in the northwest corner, correct?

9           A.     That is correct.

10          Q.     And we're going to try to drill a  
11 horizontal leg which intercepts the...is this a Lower  
12 Huron as well?

13          A.     It is.

14          Q.     Okay. Which intercepts the Lower Huron  
15 and follows it to a point before we get to the offset in  
16 the...the offset spacing in the southeast corner of the  
17 drilling window, correct?

18          A.     Correct.

19          Q.     Now, again, with regard to your  
20 expectations as to whether or not this well will be  
21 producing from the offset distance in the northwest  
22 corner, what is your opinion in that regard?

23          A.     Again, with the offset distance we had,  
24 we will be well within the window by the time we  
25 actually land in formation with a 720 curve.

1 Q. Okay. So, the same sort of analysis  
2 would apply here?

3 A. Yes.

4 Q. Okay. And with regard to this well and  
5 also with regard to the one that we just...that we just  
6 spoke of the 000 well, in the event that these...and we  
7 talked about this before, but in the event that these  
8 legs are successful and we're able to drill them all the  
9 way that we want to go or most of the way, is it always  
10 a consideration to come back and perhaps drill another  
11 leg?

12 A. Yes.

13 Q. Okay. So, that's, you know, on the  
14 drawing board for both of these potentially?

15 A. Correct.

16 Q. And you understand, however, that you  
17 would have to come back to the Board to get permission  
18 to do that?

19 A. Yes.

20 Q. Okay. But you just want to sort of give  
21 them a warning shot at the moment that that might  
22 happen, correct?

23 A. Yes.

24 Q. They might see you again on these, okay.  
25 And other than that...do you know anything about the



1 VVV29 that would cause you to suggest a different  
2 recovery at this point or would you still go with your  
3 estimate?

4 A. No. It would still fit the estimate.

5 Q. And then let's move ahead to the I10.  
6 Okay, now this is something that we have addressed  
7 before, correct?

8 A. Correct.

9 Q. And what's happened here is, if I'm not  
10 mistaken, the...you were unable to drill the vertical  
11 leg that you had originally proposed?

12 A. No, actually we weren't able to drill it.

13 Q. Okay.

14 A. Unfortunately, we were unable to complete  
15 it.

16 Q. Okay. Okay. So, the...what is then the  
17 point of coming back to the Board with regard to I10SH  
18 docket item thirty-three?

19 A. With the establishment of the unit that  
20 we already have and the...unfortunately, the failure of  
21 the completion end of this well we basically want to  
22 redrill the lateral in order to complete this unit as we  
23 were unable to give it another shot within the same  
24 zone.

25 Q. Are you going to be able to recycle the

1 original well bore from the surface or are you going to  
2 have to start---?

3 A. This will be a start over.

4 Q. A start over, okay.

5 A. Yes.

6 Q. With regard to the exhibits then, the  
7 collection of exhibits that you prepared for the Board  
8 and the plat that's in the exhibit that Anita presented  
9 to the Board, does this show the new proposed leg?

10 A. Yes.

11 Q. And the location of the New River Coal  
12 well?

13 A. Yes.

14 Q. Okay. And this roughly almost 3500 feet?

15 A. Yes.

16 Q. What was it, if you can tell, that  
17 prevented the completion?

18 A. Well, as in the nature, there is a lot of  
19 risk with the horizontal drilling. The shale is...it  
20 has a certain competency that we target fractures and  
21 things for an increase quentativity in the reservoir.  
22 That can also come back to haunt you if you encounter  
23 those in the curved section. What we actually found was  
24 the nature of the way this well drilled, we kind of  
25 started low and it came up a little bit. So, we

1 actually created ourselves a little bit of a trap. We  
2 had issues with keeping that hole clean. Then with the  
3 fractures within the curve section, we think we just  
4 lost the ability of the well bore and it did collapse on  
5 us. So, that being said, once we were able to retrieve  
6 all of our drilling iron and such, got that out of the  
7 hole and went in with our completion string, which is  
8 the packers and ports that I was speaking of, we were  
9 unable to get those to go beyond the curved section and  
10 actually run them not to the end of the lateral as we  
11 usually would. So, unfortunately at that point, you  
12 basically have lost your lateral.

13 Q. Okay. Again, I've seen...I love this  
14 phrase, putting that into English, okay, would it be  
15 fair to say that where the well curved to intercept the  
16 Huron it collapsed?

17 A. That's...that is my interpretation of  
18 what happened. That's correct.

19 Q. And that's why you were unable to get  
20 back in there?

21 A. Right.

22 Q. Okay. And have you...the original hole,  
23 is that...is that what's depicted on the plat here?

24 A. To the north, correct.

25 Q. So, it's roughly probably...roughly 600

1 feet to the north of the location?

2 A. That's probably about right, correct.

3 MARK SWARTZ: Okay. That's all I have Ian with

4 regard to these three horizontal wells.

5 BUTCH LAMBERT: Any questions from the Board?

6 BILL HARRIS: Mr.---.

7 BRUCE PRATHER: I've got a question.

8 BILL HARRIS: Okay, go ahead.

9 BRUCE PRATHER: Ian, on your plat here, is...I

10 assume that your originally well, using this same

11 vertical well, that you probably went more toward the

12 diagonals up here. Is that where your old well was?

13 IAN LUCAS: If you basically...the existing well

14 bore to the north, it would parallel this.

15 BRUCE PRATHER: Would it go into the diagonal on

16 your corner up here? Is that essentially where it was

17 going originally?

18 IAN LUCAS: I'm not sure where you're speaking

19 of Mr. Prather.

20 BRUCE PRATHER: Here is your well. I'm talking

21 about up in this corner. See you're probably, I don't

22 know maybe half an inch below the diagonal on where

23 this---.

24 IAN LUCAS: Oh, right. It would have gone to

25 the northwestern most corner. That's correct.

1           BRUCE PRATHER: The diagonal.     Yeah, okay.  
2 Okay.  
3           IAN LUCAS: Except...the reason for the shift on  
4 the new location as well as the well bores, we do want  
5 to maintain some sort of distance from that existing  
6 well bore---.  
7           BRUCE PRATHER: Oh, yeah. Absolutely.  
8           IAN LUCAS: ---so as to not lose our frac  
9 energy basically. If we went close to it, we'd frac  
10 right in the existing well bore and all energy would be  
11 dissipated quite quickly.  
12           MARK SWARTZ: Ian, we've located the original  
13 plat for the Board to sort of reconstitute where that  
14 original well was. If you take the well bore in the  
15 plat that you have and drew a line to the corner of the  
16 drilling window, the northwest corner of the drilling  
17 window, that's where it was.  
18           IAN LUCAS: Correct.  
19           BILL HARRIS: Mr.---.  
20           MARY QUILLEN: Mr. Chairman, just a question.  
21 Is this still going to the Lower Huron?  
22           IAN LUCAS: That is correct.  
23           BUTCH LAMBERT: Mr. Harris.  
24           BILL HARRIS: Yeah, let me jump in. I actually  
25 had a couple of questions. One actually related to

1 problems you may have had drilling some of these and I  
2 guess this is one of the problems. Has that diagonal  
3 already been drilled---?

4 IAN LUCAS: Yes.

5 BILL HARRIS: ---for that one?

6 BRUCE PRATHER: Uh-huh.

7 BILL HARRIS: So, it's the---?

8 IAN LUCAS: The lateral was drilled. That is  
9 correct. The horizontal section was---.

10 BUTCH LAMBERT: Not for this application. For  
11 the previous one.

12 BILL HARRIS: For the previous one. But there's  
13 no way to...I mean, you all would know if you could go  
14 back in...there's no way to clean out the curve to the  
15 point where you could utilize that?

16 IAN LUCAS: No. It was lost beyond...we  
17 actually had a couple of other points up above where it  
18 continued to sit down. So, it was...it was deemed to be  
19 uneconomic to continue in that well bore. Plus you then  
20 stand the risk of losing your expensive down hole  
21 equipment, your bottom hole assembly, your motors and  
22 your bits. At that point, you know, with the potential  
23 of a half a million dollar string of tools, you said,  
24 ew, it's getting a little bit sticky. So, at some point  
25 you have to---.

1           BILL HARRIS: Yeah. Sort of quit while you're  
2 ahead sort of.

3           IAN LUCAS: ---throw in the towel.

4           BRUCE PRATHER: I'm---.

5           BILL HARRIS: Let me finish. So, the new one  
6 that is being drilled, is that expected to communicate  
7 with the other in any way? I mean, I don't know how far  
8 apart we're talking.

9           IAN LUCAS: No. I don't anticipate just because  
10 we didn't complete the existing because that lateral was  
11 never completed.

12           BILL HARRIS: So, the fracing that would have  
13 occurred there---?

14           IAN LUCAS: Correct.

15           BILL HARRIS: Okay. I do have a question about  
16 that. Of course, I think you talked about it by using  
17 nitrogen only. But Nationally, you know, there's a lot  
18 news...a lot of press about horizontal drilling and  
19 problems with water and what not. Although I haven't  
20 read all of that, but I know a lot of it talks about...I  
21 won't say destruction but problems with surface water or  
22 water just under the surface. So, you've talked about  
23 the structure that would prevent some interference  
24 there.

25           IAN LUCAS: Correct. We do have a series of

1 casing program to which, you know, we meet above and  
2 beyond all regulations in order to protect not only  
3 (inaudible) but as well as the coal bearing strata. You  
4 know, do...we set casing, which is then cemented back to  
5 the surface in order to protect those.

6 BILL HARRIS: So that isolates the---?

7 IAN LUCAS: Exactly. But this are also drilled  
8 on air. This is---.

9 BILL HARRIS: Drilled?

10 IAN LUCAS: We actually drill these on air  
11 meaning we don't even---.

12 BILL HARRIS: Oh, yes, okay.

13 IAN LUCAS: ---use water in the sense of  
14 drilling. We don't use---.

15 BILL HARRIS: Yeah. Because you read a lot  
16 about people using millions of gallons of water to---.

17 IAN LUCAS: Right. Right. We don't use water  
18 to drill and we do not use water to frac. We drill on  
19 air and then we use a straight nitrogen gas frac system.

20 BILL HARRIS: Okay. I have one other question.  
21 Did you have---?

22 BRUCE PRATHER: Well, I was just going to tell  
23 him one thing and that is that when you have a hold  
24 caving on your like that I'm not too sure that you can  
25 get the packers that will have integrity down in a hole



1 that's caving. In other words, those packers just out  
2 so far.

3 IAN LUCAS: Right.

4 BRUCE PRATHER: And so if you're in hole that's  
5 caving, you can't depend on what the diameter of that  
6 hole is going to be. I'm not to sure you would want to  
7 risk that kind of capital on a hole that's caving.

8 IAN LUCAS: And that's why we're before you  
9 again today to do another one.

10 BRUCE PRATHER: Okay.

11 BILL HARRIS: One other question and this  
12 actually has to do with the pooling aspect of this. I,  
13 unfortunately, have not been able to make it to the  
14 horizontal drilling committee meetings and actually have  
15 missed the last couple of months from a work standpoint.  
16 These in your horizontal unit proposal you can pick any  
17 of them because essentially the language is the same.  
18 It says...of course, you want to use the existing  
19 vertical units and that the 60/80 acre...I'm sorry,  
20 those horizontal, I guess units, that you're putting  
21 together for the 320. The next one says, refine unit  
22 size at a later date once we characterize reservoir and  
23 effective factoring links in order to optimize spacing  
24 and drainage. When you do that in a pooling, of course,  
25 you're saying that we're going to pool this number of

1 people who are within this area. What does that  
2 do...you know, because from what I understand about some  
3 of the recommendation you're maybe building units or  
4 acreage around the actual frac links and whatever? Will  
5 that exclude some people that are already in the pool  
6 here and what happens with those folks?

7 MARK SWARTZ: Okay. You're actually asking an  
8 engineering guy kind of a legal regulatory question.

9 BILL HARRIS: Okay. Well---.

10 MARK SWARTZ: I mean, my expectation and I leave  
11 it to Sharon or Mr. Lambert to straighten me out, but,  
12 you know, once we create a 320 acre unit and we afford  
13 people, you know, the opportunity to participate in that  
14 unit, it is not a...we do not contemplate going back and  
15 changing these 320 acre units because, you know, all  
16 sorts of impediments.

17 BILL HARRIS: Oh, yeah.

18 MARK SWARTZ: So, the new rules will not apply  
19 to this well for---.

20 BILL HARRIS: Okay. Well, I was just reading  
21 that statement that says resize at a later...refine unit  
22 size at a later date.

23 MARK SWARTZ: And that's...that is simply a  
24 reference to the ongoing process. I mean---.

25 BILL HARRIS: So, going forward the new---.

1           MARK SWARTZ: Right. As you...as you---.

2           BILL HARRIS: I don't mean to answer your  
3 question.

4           MARK SWARTZ: No.

5           BRUCE PRATHER: Well, would you want to retain  
6 the option to do it if you wanted to---?

7           BILL HARRIS: Well, but---.

8           BRUCE PRATHER: ---as an operator?

9           MARK SWARTZ: Probably not.

10          BILL HARRIS: See if I were in the original 320  
11 and then all of a sudden the unit...the area is smaller  
12 and I'm not included now...you know, if I wanted to be  
13 included then I would be a little upset, I think, if my  
14 name were listed here and then a month from now you  
15 said, oh, well, you know, we realize that we don't go  
16 out that far so we're not going to include you.

17          MARK SWARTZ: Right. It's definitely whose ox  
18 is being gored issue. I mean, if you include a bunch of  
19 people in a 320 acre unit and then you go back and say  
20 we're throwing some of you out, I mean, I don't think  
21 you need to...I think we need to be doing that. So,  
22 just---.

23          BILL HARRIS: Yeah.

24          MARK SWARTZ: ---to make it clear from our  
25 standpoint as the operator and as their lawyer, you

1 know, we are not planning on coming back on these units  
2 once we have finalized regulations to start tinkering  
3 with them for a whole host of reasons. I mean, we're  
4 only touching on a couple. But that is not our  
5 intention.

6 IAN LUCAS: From the technical side of that and  
7 with regard to what you read, the characterizing of  
8 reservoir in order to go forward which...you know, and  
9 we hope that that will be refined based upon what the  
10 committee has put together for the Board. However, in  
11 the existing units though that we don't wish to change  
12 and we can't...I mean, you know, we understand that for  
13 many reason, but they may be why we also want to come  
14 back and drill the additional laterals within that  
15 existing unit because we may not feel that we're  
16 ultimately draining out to the edges and know that we're  
17 not going to change anything from who is getting paid  
18 within that 320. We may ultimately recover a better  
19 proportion of the reserves if we could come back in as  
20 we brought up earlier about drilling another lateral  
21 within the existing unit.

22 BILL HARRIS: Okay. Okay.

23 MARY QUILLEN: This was not addressing the new  
24 horizontal or the proposed new horizontal field rules  
25 because those...that would not come into play until

1 those were approved. But this---.

2 IAN LUCAS: Right. This was all designed with

3 what we have to date.

4 BILL HARRIS: Well---.

5 MARY QUILLEN: If you want to come back...if you

6 want to go back and drill another well and extend

7 that...I mean, within that 320 acres, that's what that

8 was referring to. It wasn't referring to anything in

9 the future, correct?

10 IAN LUCAS: That's correct.

11 BILL HARRIS: Okay. Okay, thank you.

12 BUTCH LAMBERT: Any other questions?

13 (No audible response.)

14 BUTCH LAMBERT: Mr. Lucas, in the application

15 you estimate that you're going to produce 500 mmcf for 1

16 bcf and then in the reservoir estimates you given us

17 numbers 300 to 380. So, which is it?

18 IAN LUCAS: I'm sorry, Mr. Chairman.

19 BUTCH LAMBERT: Right there where you've got

20 your chart on reserve estimates. Under your finger

21 right there.

22 IAN LUCAS: The first number that you reported

23 was from---?

24 SHARON PIGEON: The application.

25 MARY QUILLEN: Application.

1                   BUTCH LAMBERT: Application.

2                   MARK SWARTZ: He's saying there's a number that  
3 Anita uses in the application and those are your  
4 numbers. He wants to know which one you have confidence  
5 in. That's what he's asking.

6                   IAN LUCAS: Oh, I see. The recoverable is based  
7 on the 30% rf. It's just...it's...the application has a  
8 range that's from within the 30% rf. I don't have  
9 enough at this point to confirm nor deny it. But  
10 for...you know, I certainly believe that 30% is  
11 absolutely obtainable. If it's not, we're going to find  
12 that economics of these wells are going to be strained.

13                   BUTCH LAMBERT: Where did Ms. Duty get her  
14 numbers?

15                   IAN LUCAS: Well, Ms. Duty's numbers are from  
16 within the second reported range. It's a 500...instead  
17 of 450 to a 1,000 hers, I believe, says 500 to 1 bcf.

18                   BUTCH LAMBERT: So, you're pretty comfortable  
19 with a 30% recovery?

20                   IAN LUCAS: Yes, I would be.

21                   BUTCH LAMBERT: Okay. Any other questions?

22                   (No audible response.)

23                   BUTCH LAMBERT: Anything further, Mr. Swartz?

24                   MARK SWARTZ: I need to ask Ms. Duty some  
25 questions about thirty and thirty-three in terms of

1 notice and so forth to sort of complete that record.

2 BUTCH LAMBERT: Okay.

3 MARK SWARTZ: Anita, tells me that we have some  
4 revisions for VVV29 short hole.

5 ANITA DUTY: Shale.

6 MARK SWARTZ: Or shale, I'm sorry.

7 (Exhibits are passed out.)

8

9 ANITA DUTY

10 having been duly sworn, was examined and testified as  
11 follows:

12 DIRECT EXAMINATION RESUMES

13 QUESTIONS BY MR. SWARTZ:

14 Q. Anita, we need to complete the record  
15 with regard to VVV29 and I10 with regard to mailing.  
16 Could you...and publication. Could you tell the Board  
17 what you did to advise or inform the respondents in  
18 those two units there was a going to be a hearing today?

19 A. We mailed by certified mail, return  
20 receipt requested on September the 16th, 2011.  
21 For...actually for both of us. For VVV29SH we published  
22 it in the Bluefield Daily Telegraph on September the  
23 27th, 2011. For I10 we published on September the 24th,  
24 2011.

25 Q. And then what...what appeared in the

1 paper when you published?

2 A. The notice and location map.

3 Q. Okay. And have you brought with you and  
4 have you provided or are you about to provide your  
5 certificates with regard to publication...your  
6 proofs...your certificates with regard to publication  
7 and with regard to mailing?

8 A. Yes.

9 Q. Okay. With regard to VVV29, what is the  
10 percentage interest that you're seeking to pool?

11 A. 8.4157%.

12 Q. And with regard to I10, the outstanding  
13 interest its already been pooled, so we're basically  
14 just looking at the new well, correct?

15 A. Yeah.

16 Q. Okay. With regard to the VVV and the I10  
17 wells...proposed wells, have you provided the Board with  
18 cost estimates for those?

19 A. Yes.

20 Q. Okay. Your cost estimate with regard to  
21 VVV29 is what?

22 A. \$1,530,410.

23 Q. And with regard to the new proposed well  
24 in I10?

25 A. \$1,457,924.



1 Q. Okay. And do you have permits for those  
2 wells?  
3 A. No.  
4 Q. Okay. And, obviously, neither of those  
5 require escrow?  
6 A. No.  
7 Q. Okay. And with regard to I10 you've  
8 already provided...well, there's already an order that's  
9 either on the way or it has been entered with regard to  
10 the first well, correct?  
11 A. Correct.  
12 Q. Okay. Is it your opinion with regard to  
13 these three wells that we've been talking about, these  
14 three 320 acre units and the well...horizontal wells in  
15 those units, is it your opinion that drilling a  
16 horizontal well as depicted in the plats of these three  
17 units is a reasonable way to try and recover the  
18 conventional gas from the formation...the target  
19 formations?  
20 A. Yes.  
21 Q. And then with regard to VVV29 you have  
22 some amended or revised exhibits that you passed out?  
23 A. Yes.  
24 Q. And what are those?  
25 A. The tract ID and the Exhibit B-3.

1 Q. And what's the reason for those  
2 revisions?

3 A. On the Exhibit B-3 we had some unknown  
4 addresses and we've been able to locate all of them.  
5 So, we wanted to, you know, put those addresses on the  
6 record. And then for the tract ID we found out that  
7 those folks are also leased by EQT and not Appalachian  
8 Energy. So, we updated the tract ID to reflect that.

9 Q. Okay. So, that...that covers the  
10 waterfront with regard to the revised tract ID and the  
11 revised Exhibit B-3?

12 A. Yes.

13 Q. And that pertains only to VVV29?

14 A. It does.

15 MARK SWARTZ: I think that's all I have, Mr.  
16 Chairman.

17 BUTCH LAMBERT: Any questions from the Board?

18 (No audible response.)

19 BUTCH LAMBERT: Anything further, Mr. Swartz, on  
20 docket items twenty-nine, thirty and thirty-three?

21 MARK SWARTZ: No, I think that covers it from my  
22 standpoint.

23 BUTCH LAMBERT: Do I have a motion on docket  
24 item twenty-nine, thirty and thirty-three?

25 MARY QUILLEN: Motion to approve.

1                   BRUCE PRATHER: Second.  
2                   BUTCH LAMBERT: I have a motion and a second.  
3 Any further discussion?  
4                   (No audible response.)  
5                   BUTCH LAMBERT: All in favor, signify by saying  
6 yes.  
7                   (All members signify by saying yes, but Katie  
8 Dye.)  
9                   BUTCH LAMBERT: Opposed, no.  
10                  KATIE DYE: I'll abstain.  
11                  BUTCH LAMBERT: One abstention Mrs. Dye. Thank  
12 you, Mr. Swartz. Those three are approved.  
13                  MARK SWARTZ: Thank you.  
14                  BUTCH LAMBERT: We're going to now break for  
15 lunch. We'll resume at 1:30.  
16                  (Break.)  
17                  BUTCH LAMBERT: Okay, ladies and gentlemen, it's  
18 now 1:30, time to resume these proceedings. At this  
19 time, we're going to call docket item number thirty-  
20 seven. A petition from CNX Gas Company, LLC for  
21 creation of a drilling unit and pooling for conventional  
22 gas unit TC...T3CV, docket number VGOB-11-1115-3002.  
23 All parties wishing to testify, please come forward.  
24 We've got a gentleman that needs to get out here to go  
25 see about a new baby.

1                   MARK SWARTZ: He's also involve in thirty-nine.  
2                   BUTCH LAMBERT: Do you want to call them both?  
3                   MARK SWARTZ: If you could.  
4                   BUTCH LAMBERT: Okay. Also calling thirty-nine.  
5 A petition from CNX Gas Company, LLC for creation of a  
6 drilling unit and pooling for conventional gas unit  
7 T1CV, docket number VGOB-11-1115-3005.  
8                   MARK SWARTZ: Mark Swartz, Anita Duty and Ian  
9 Lucas.  
10                  BUTCH LAMBERT: You may proceed, Mr. Swartz.  
11                  MARK SWARTZ: Thank you.  
12  
13                                   ANITA DUTY  
14 having been duly sworn, was examined and testified as  
15 follows:  
16                                   DIRECT EXAMINATION  
17 QUESTIONS BY MR. SWARTZ:  
18                   Q. Anita, you need to state your name for  
19 us, please.  
20                   A. Anita Duty.  
21                   Q. Okay. And who do you work for?  
22                   A. CNX Land Resources.  
23                   Q. And we've already talked about the fact  
24 that you have a responsibility for pooling and  
25 creation...the paperwork associated with pooling and the

1 creation of drilling units, correct?

2 A. Yes.

3 Q. Did you either prepare or supervise the

4 preparation of these two applications?

5 A. Yes.

6 Q. Do we have revised exhibits with regard

7 to one of them?

8 A. Yes.

9 Q. Which one?

10 A. T3CV.

11 Q. Okay. Can you pass those out?

12 A. Yes.

13 (Exhibits are passe out.)

14 Q. Okay. With regard to these two units,

15 lets talk about what you did to give the respondents

16 notice that there would be a hearing today concerning

17 these two?

18 A. Mailed by certified mail, return receipt

19 requested on October the 14th, 2011 and published in the

20 Bluefield Daily Telegraph on October the 22nd, 2011.

21 Q. And which one was that, both of them?

22 A. Oh, no, that was T3.

23 Q. Okay.

24 A. And...it's actually the same for both---.

25 Q. Okay.

1           A.     ---for T3 and T1.

2           Q.     And have you brought with you your  
3 certificates with regard to mailing and with...and your  
4 proof of publication and are you prepared to provide  
5 those to Mr. Cooper?

6           A.     Yes.

7           Q.     Okay. Both of these wells are...the unit  
8 sizing is as a result of circular spacing, correct?

9           A.     Yes.

10          Q.     Okay. And what is the target formation  
11 for these...for these two wells?

12          A.     The shale.

13          Q.     Is it the Big Lime perhaps?

14          A.     Big Lime, yes. Sorry.

15          Q.     Okay. Okay. That's all right. Do you  
16 want to...let's start with the first one that was listed  
17 T3CV, do you want to make any revisions to the list of  
18 respondents?

19          A.     No.

20          Q.     Okay. Do you have any revised exhibits  
21 with regard to T3CV though?

22          A.     I do.

23          Q.     Okay. And you've passed those out to the  
24 Board?

25          A.     Yes.

1                   Q.       Okay.     And what's the reason for the  
2 revisions?

3                   A.       They revised the...they moved the  
4 location of the well about 13 feet to get the minimum  
5 spacing.

6                   Q.       Okay.     So, you wound up changing the  
7 tract IDs and the plats to reflect that and the unit  
8 moved a little bit probably?

9                   A.       It did.

10                  Q.       Okay.     So, the reason for the change in  
11 the four exhibits that you've provided today was the  
12 well moved slightly?

13                  A.       Yes.

14                  Q.       Okay.     Do you want to dismiss any of the  
15 respondents with regard to either of these units?

16                  A.       No.

17                  Q.       Do you want to add any to either unit?

18                  A.       No.

19                  Q.       Okay.     With regard to T3CV, the first on  
20 the docket, what's the interest that you've acquired by  
21 purchase or lease and what's the interest that you're  
22 seeking to pool?

23                  A.       We've acquired 78.862%. We're seeking to  
24 pool 21.1376%.

25                  Q.       Okay.     And likewise with regard to T1CV,

1 what you acquired or leased and what are you seeking to  
2 pool?

3 A. We've acquired 62.2926%. We're seeking  
4 to pool 37.7074%.

5 Q. Okay. And have you provided well cost  
6 estimates with regard to both of these wells?

7 A. Yes. For T3CV \$410,763, estimated depth  
8 4,900 feet and no permit. T1CV \$411,403, estimated  
9 depth 4,815 feet and no permit.

10 Q. Okay. Let's look at...let's look at the  
11 revised plat for T3CV and basically what you have here  
12 is you've put the well bore in the middle of a circle,  
13 correct?

14 A. Yes.

15 Q. And that circle contains how many acres?

16 A. 112.69.

17 Q. And what's the radius of that circle?

18 A. 1250.

19 Q. Okay. And there's a T3 pretty close to  
20 this well and what kind of well is that?

21 A. CBM.

22 Q. Okay. And are you proposing to use some  
23 of the same roads and some of the same infrastructure  
24 for this well?

25 A. Yes.



1 Q. So, there's less surface disturbance and  
2 less cost as well?

3 A. There would be.

4 Q. Okay. Turning to T1CV, you've got...I'll  
5 just share with you. You've also got a plat, correct?

6 A. Uh-huh.

7 Q. And once again we've got the well bore in  
8 the middle of a circle?

9 A. Yes.

10 Q. And the radius of this circle?

11 A. 1250.

12 Q. And the acreage?

13 A. 112.69.

14 Q. Okay. And with regard to the second  
15 application, the...we're going to need...probably need a  
16 location exception obviously?

17 A. Yes. We didn't originally ask for it,  
18 but---.

19 Q. Okay. But we're going to need one?

20 A. Yes.

21 Q. Okay. We'll probably get into that more  
22 with Ian. Just to...does the Board have Ian's exhibits?

23 A. No.

24 Q. Okay. Let's pass those out.  
25 (Exhibits are passed out.)

1           Q.     Anita, let's take a look so that we can  
2 just wave the red flag for the Board so they don't have  
3 to figure it out.

4           A.     Okay.

5           Q.     Let's look at the map that looks like  
6 this, okay. This is a Big Lime play and we'll talk to  
7 Ian in some detail about that. But I wanted to bring to  
8 the Board's attention the location of an existing Big  
9 Lime, okay, and then these two wells that we're  
10 currently talking about, these two docket items. On  
11 this map, Anita, there's circle sort of around BU3854  
12 and then T2CV. Do you see that?

13          A.     Yes.

14          Q.     Okay. And the T2CV is a Big Lime well  
15 that we've already done, okay.

16          A.     Yes.

17          Q.     All right. And then the two wells that  
18 we're talking about today are the circles with the plus  
19 sign in them. The T1CV, correct?

20          A.     Yes.

21          Q.     Which is roughly 1250 feet from the T2CV,  
22 right?

23          A.     Yes.

24          Q.     And then we've got the T3CV, which is  
25 located to the east and that appears to be more on the

1 order of, you know, 2,000 or 2,500 feet away, correct?

2 A. Yes.

3 Q. Okay. And those are the locations of the

4 two wells that we're talking...that you and I have been

5 talking about...the two units and wells that we've

6 talking about in relation to an existing Big Lime well,

7 correct?

8 A. It is.

9 Q. Okay. And, obviously, we're going to

10 need some spacing exceptions if this...if this

11 development is to proceed certainly for the T1CV and the

12 T3CV that's not quite so urgent, correct?

13 A. I think we're...once they moved it, we're

14 good on T3.

15 Q. Okay. So, we should be able to meet

16 statewide spacing for that one?

17 A. Yes.

18 Q. Okay. Have you had situations in the

19 past where we've actually had either squares or

20 rectangles or circles where the units have overlapped?

21 A. Yes.

22 Q. And what do we do with regard to royalty

23 from those wells when that happens?

24 A. Take from both.

25 Q. Okay. So, if someone is in the T2CV unit

1 and they're also in the T1CV unit they're going to get  
2 paid the percentage interest that they have in both of  
3 those wells?

4 A. Correct.

5 Q. So, you're actually paying some of the  
6 acreage double?

7 A. Yes.

8 Q. Okay. And that would be your plan here  
9 if these were approved---?

10 A. It would.

11 Q. ---to the extent they overlap? It looks  
12 like the T3CV may not. But certainly the T1 and the T2  
13 would overlap no matter what.

14 A. Right.

15 MARK SWARTZ: Okay. Let's see here. Okay, I  
16 think that's all I have of Anita. Obviously, then I  
17 want to move to Ian. But if you have questions of  
18 her---.

19 BUTCH LAMBERT: Any questions from the Board?  
20 (No audible response.)

21 BUTCH LAMBERT: You may continue Mr. Swartz.

22 MARK SWARTZ: I'd like to call Ian.

23 BUTCH LAMBERT: Proceed.  
24  
25

1                                    IAN LUCAS  
2    having been duly sworn, was examined and testified as  
3    follows:  
4                                    DIRECT EXAMINATION  
5    QUESTIONS BY MR. SWARTZ:  
6                    Q.     Ian, you're still under oath, okay. You  
7    need to state your name for us again.  
8                    A.     Ian Lucas.  
9                    Q.     Who do you work for?  
10                  A.     Consol Energy.  
11                  Q.     And what do you do for them?  
12                  A.     I'm a geologist.  
13                  Q.     Okay. Did you put together a series of  
14    slides that we've printed and provided the Board with  
15    regard to these wells that Anita and I have been talking  
16    about?  
17                  A.     I have.  
18                  Q.     Okay. And let's go to the map that Anita  
19    and I were briefly talking about. Is there an existing  
20    Big Lime well shown on that map?  
21                  A.     Yes. That would be the T2CV.  
22                  Q.     Okay. And that's the...it's look a sun.  
23    The circle with the---.  
24                  A.     That's correct.  
25                  Q.     And would you tell the Board how that got

1 drilled and what...what that's producing from?

2           A.       Yeah.   When I assumed the roles of the  
3 Lower Huron exploration program in Virginia there were  
4 several test wells that had already been drilled to date  
5 and several in the process of being drilled even on the  
6 horizontal sense.   So, I have the fortunate luck of  
7 coming across this well when I was doing my mapping for  
8 the Huron and realized that we had some additional up  
9 hole potential that was left behind when they ran deep  
10 just to test the Huron to figure the depth thickness and  
11 such and we were planning out our horizontal program.  
12 In doing so, we repermitted the well as a conventional  
13 rework and stimulated the Big Lime zone and quite  
14 successful.   So, that being said, we decided that it was  
15 worth presuming maybe a couple additional targets within  
16 that play itself.

17           Q.       And when you say quite successful, could  
18 you give the Board some indication of what the Big Lime  
19 is producing from T2CV?

20           A.       Prior to the recompletion in the Big Lime  
21 the well was producing around 17 mcf a day.   We peaked  
22 at...well, the open flow in that well was well above a  
23 million a day.   We're currently making somewhere around  
24 a 160 to a 170 a day.   That's 140 days after the  
25 recompletion.   So, it has been a...it has been a great

1 success.

2 Q. It turned out to be a pretty good  
3 outcome.

4 A. Took a well on the economic limits and  
5 made it very economic.

6 Q. Okay. In terms of development of the Big  
7 Lime in Virginia, has there been a history in this area  
8 that you can...you can rely or derive data?

9 A. There are other completion in the Big  
10 Lime in various areas. There's not very much in this  
11 particular region.

12 Q. Is there to the north of us quite a bit  
13 of development and mapping in West Virginia?

14 A. Yeah. There was an extensive amount of  
15 drilling specifically for the Big Lime in Southern West  
16 Virginia particularly with the experience that I had  
17 prior to coming to CNX Gas. When I was with Dominion,  
18 we drilled a whole bunch of Big Lime wells in Southern  
19 West Virginia, yes.

20 Q. And is one of the slides that you've  
21 provided to the Board some mapping with regard to the  
22 Big Lime in West Virginia north of the state line?

23 A. Yeah. The map prior to that is actually  
24 based upon the gas atlas, which is publically available  
25 resource that was put together for all the various plays

1 that exist in the Appalachian Basin. So, this  
2 particular work was just an example taken from  
3 (inaudible) work.

4 Q. Okay. And just to cover some of the  
5 concepts here, are the shaded areas basically asipacts?

6 A. That's correct.

7 Q. And what's an asipact and what is...how  
8 does that get drawn?

9 A. The idea behind this map is it's based  
10 upon just a regional thickness data and then...and then  
11 that data is the contoured upon the thickness of it.  
12 The idea here where your thickness is increasing, it was  
13 shaded but there's not correlation for why I'm showing  
14 as to the shaded interval. The important aspect here is  
15 showing some orientation in these linear bar features  
16 that you see within these Big Lime, what we call Blue  
17 Light Packages.

18 Q. Okay. And if we look at these, at this  
19 map, the map that shows a part of Virginia and McDowell  
20 County and Wyoming Counties, it looks like these  
21 asipacts kind of are parallel to each other. Is that  
22 what you find in the geology of this?

23 A. Yes, in this particular interval.

24 Q. Okay. And you've got a...we're going to  
25 come back to this map. But have you tried to show that



1 on another slide?

2 A. I did in a cartoon fashion.

3 Q. Okay. And could you...could you tell the  
4 Board...because I think in context it will make a little  
5 more sense, could you tell the Board about the geology  
6 of how these were formed and why they might have a  
7 common orientation?

8 A. Yeah. What...and I'll resort back to the  
9 familiarity that we have with the Lower Huron. It's a  
10 widespread shale resource play is what we call that.  
11 The reason being wherever we drill in this area, we're  
12 going to hit the Lower Huron shale. It's a matter of  
13 shale quality and some thickness and other various  
14 perimeters that we look at. But we deem it a resource  
15 play in that it's pretty much existent across this part  
16 of the basin. When we are looking at these Big Lime  
17 blue like plays they are much more on the...where shales  
18 deemed an unconventional play, these are much more on  
19 your conventional oil and gas plays in that they  
20 are...they are very much constrained by the geological  
21 formation in that you can miss these targets. So, if  
22 you're not within your zone of interest or your  
23 specified geologic target, if you miss there's not gas.  
24 So, these are a much narrower margin for error. They  
25 are very tightly geographically constrained. What the

1 picture here, the cartoon is showing is where I showed  
2 the linear bar from a borrowed resource, which is a  
3 basin white trend, what we've seen with mapping these  
4 Big Lime intervals is that due to the tidal waves you  
5 essentially get bars that form perpendicular to your  
6 shorelines. So, imagine the modern day bench in the  
7 Bahamas where you have an carbonated environment.  
8 So...and if we want to take a field trip, we'll schedule  
9 that for a later date.

10 (Laughs.)

11 But they form perpendicular to the shoreline  
12 and the tidal currents create them, as the tide comes  
13 and as the tide goes out you get these linear bars that  
14 show up parallel on a narrow scale and then these wells  
15 in this basin wide scale these continue to form. But  
16 what we've found through our...through research that has  
17 been done in the past and through our drilling programs  
18 is that there's actually individual packages within  
19 those bars that we have to target. That's what I show  
20 as these little green ovals that are designated as a  
21 shoal. So, I actually have these shoals and it's  
22 refractive nature of tidal currents there. That's why  
23 you see a...kind of an acute orientation to the actual  
24 bar. Those shoals turn out to be where our porosity  
25 development is the best. That's where these Oolites

1 which are nothing...I mean, nothing more than carbonate  
2 mud rolled up in a nice little ball really and then they  
3 accumulate. Kind of how a sandstone conventional  
4 reservoir works in that you have porosity between those  
5 and some porosity actually in the grains themselves, but  
6 that's what's allowing our gas to be stored. So, we're  
7 trying to target these shoals. But what the picture is  
8 showing is that you're going from these big bars, which  
9 are kind of constrained geologically and geographically  
10 but then you even have a smaller target on top of them  
11 that I designate as the shoals. So, that's kind of  
12 where this cartoon is leading.

13 Q. Now, the upper right hand corner of the  
14 cartoon page---.

15 A. Right.

16 Q. ---shows an individual shoal from a side  
17 view.

18 A. Correct.

19 Q. So, when it was laid down or formed by  
20 the tide it's going to have an approximately flat bottom  
21 because it was laid on a surface?

22 A. Correct.

23 Q. And then you're going to have a height  
24 variation over the shoal?

25 A. Correct.

1 Q. Okay. And that height variation is  
2 actually mapped on the West Virginia where you've got  
3 your...you're showing your thickness and basically the  
4 center of the shaded areas tends to be thicker than the  
5 boundary, correct?

6 A. Right. The shaded zone being more of  
7 your bar not so much as your actual shoal.

8 Q. Okay. And...but the thickness is in the  
9 center more?

10 A. That's correct.

11 Q. Okay. And in addition, I think on the  
12 cartoon page you've given us a slide?

13 A. That's correct.

14 Q. And how was that prepared and what does  
15 it show?

16 A. That is actually a...it's a photograph of  
17 a thin section blow up many hundred times, but the idea  
18 just to show the nature of those small Oolited grains  
19 and kind of the greyish. Whitish area in between  
20 showing up, that's your...that's your intergranular  
21 porosity versus some of the gaps that you have within  
22 the grain itself, which is considered intergranular  
23 porosity. The idea being that within these targets you  
24 have a lot of space to store gas.

25 Q. And with regard to this slide, and

1 essentially what you've done is you've got a very thin  
2 piece of the road?

3 A. That's correct.

4 Q. So, thin that light actually shines  
5 through it and you can look at it in a microscope and  
6 take a picture?

7 A. Correct.

8 Q. This is a picture taken with a  
9 microscope. I mean, you're not going to see...these  
10 things aren't this big.

11 A. It's a photo micrograph.

12 Q. Okay. And the...and is it...just to  
13 repeat, but I want to make sure the Board understand,  
14 between the blueish green pieces it looks like there's  
15 sand or there's some other material other than what the  
16 grain...the grains are made of.

17 A. Some cementing matrix, that's correct.

18 Q. Okay. Okay. And my question for you, is  
19 there gas stored if you hit the right spot in both the  
20 Oolites and the cement?

21 A. That's correct.

22 Q. Is the porosity in the Oolites and the  
23 cement the same?

24 A. No. No, sir.

25 Q. Okay. Is it difficult to handicap and

1 predict the porosity of this kind of a formation?

2 A. Yes. The porosity as well as the  
3 permeability. The ability for that gas to migrate  
4 between them.

5 Q. Okay. And coming back then to the  
6 proposed locations that we're talking about---

7 A. Right.

8 Q. ---to the existing unit or the existing  
9 well that we have and then the one well, which probably  
10 meets the spacing requirements, and then the other one  
11 which clearly would not, you know. Could you share with  
12 the Board your thinking in terms of why would it make  
13 sense to do provisional...you know, wells and units in  
14 these locations in this area?

15 A. Yeah. What...there's basically two data  
16 points that I have known of Big Lime logs. So, that  
17 doesn't give me a whole lot to constrain the extents of  
18 what these little shoals are that I'm targeting. So,  
19 that being said, I've got those two and though I do know  
20 some basinal orientations so I kind of use, you know,  
21 the geological interpretation and kind of base it upon  
22 what I know from other areas, there's a whole lot of  
23 guesstimate work as far as the extent of what these  
24 individuals shoals will extend out in each direction.  
25 So, the thought process that I had was to put two wells

1 in order to further test this...these targets was  
2 one...you know, the T3CV fit...it fit not perfectly  
3 within the orientations but probably sufficient enough  
4 to make it a good...a good well. However, as I move  
5 from the existing T2CV to the west, it doesn't take long  
6 to get well within the definitional limits. What I also  
7 don't know in a porosity play like this is I don't know  
8 my permeability. So, I technically don't know how far  
9 I'm actually draining being that this is not a fracture  
10 play where I would expect to drain larger areas after  
11 the big...the same fracture. So, it is a test of source  
12 on that regard too. So, not only am I trying to define  
13 my targets and where I'm finding these Oolites, the  
14 color variation that you see is actually two  
15 different...through time there were, you know, these  
16 sequences happened several times. So, if I'm lucky  
17 enough to find two of them all the better. The blue is  
18 actually an upper member that we designated as the  
19 union. The lower, which is the red contours, is  
20 designated as the Denmar member. The idea here is we  
21 did have two of them. So, what I'm showing where the  
22 blue and the red are kind of next to each other,  
23 although I'm kind of probably getting within the limits  
24 of the union, which is shown in blue, I'm hoping that if  
25 the spacing in which I'm requesting I can still hit both

1 targets, so I can (A) refine my geologic mapping in  
2 order to pursue these targets in the orientations in  
3 which they exist; and, (B) try to get a handle on what  
4 my spacing ultimately should be so that I know how to  
5 properly plan going forward. So, it's kind of a two-  
6 part system. Basically, to go back to your cartoon,  
7 would it be fair to say that you are trying to develop  
8 data to predict the size and orientation of the green  
9 shoals that you're showing in your cartoon---?

10 A. That is correct.

11 Q. ---to try and hit those?

12 A. That's correct.

13 Q. And just to make one point sort of again,  
14 I think you testified to this, but I want to make sure  
15 that the Board understands the testimony. If you don't  
16 hit a shoal, okay, what happen...what's your well?

17 A. You just have...you just have a very...a  
18 very low porosity limestone basically. You don't have  
19 that porosity development that you need when it's just  
20 doing the gas. So, you essentially...you won't produce  
21 it.

22 Q. You're going to wind up essentially with  
23 a dry hole?

24 A. Correct.

25 Q. Okay. So, the goal here is to develop



1 some data to get a better understanding of the location,  
2 size and orientation of these shoals and the gas  
3 content---?

4 A. Correct.

5 Q. ---so that you can develop ultimately if  
6 it looks like it's worth doing the kind of data that we  
7 have just to the north of us?

8 A. Correct.

9 Q. From your...from the data that's  
10 available to you in Virginia and the data that's  
11 available publically, what is your expectation with  
12 regard to whether or not Oolite play that we see in West  
13 Virginia probably extends into Virginia?

14 A. Very likely. It shouldn't stop at a  
15 (inaudible). The one other addition that I would like  
16 to add on the actual choosing of these locations is (A)  
17 the spacing within the geological constraints, but we're  
18 also trying to utilize whatever we can from the  
19 landside. So, you know, that came into play also where  
20 we chose these targets because those existing pads are  
21 there. The roads are there and the existing well  
22 locations are there. So, what I'm proposing is is (A) I  
23 can get a good data point; and, (B) we can also put it  
24 where we're going to have the least impact from a  
25 surface standpoint. So, there was...it wasn't just the

1 best geologic position as well as it fit also into our  
2 land model. So, it was a benefit there as well.

3 Q. The last thing that I would have before I  
4 turn you...turn them loose on you, you know, is on this  
5 map the blue lines and the red lines is there...what is  
6 the approximate vertical distance between those---?

7 A. Between the two targets?

8 Q. Right.

9 A. It's approximately 400 feet.

10 Q. Okay. So, they're fairly close together?

11 A. It's within the Big Lime.

12 Q. And the blue, is the blue the upper or  
13 the lower?

14 A. The blue is the upper.

15 Q. Okay. And then the red, which appears to  
16 be larger in terms of---?

17 A. Based on the two data points that I  
18 have---.

19 Q. That you have. Okay, you're hoping it's  
20 larger?

21 A. I'm hoping.

22 Q. Okay. And it looks like with regard to  
23 the T1CV in terms of the data you have available, there  
24 is a possibility that you will encounter both of those?

25 A. That's correct.

1 Q. And your expectation with regard to the  
2 T3CV is you're not going to encounter both?  
3 A. We don't anticipate, but it would be a  
4 surprise if it did.  
5 Q. But you could. Right.  
6 MARK SWARTZ: That's all I have, Mr. Chairman.  
7 BUTCH LAMBERT: Any questions from the Board?  
8 SHARON PIGEON: Would you like to mark this  
9 Exhibit AA?  
10 MARK SWARTZ: The whole thing probably. Yes,  
11 that would be great.  
12 BUTCH LAMBERT: Anything further, Mr. Swartz?  
13 MARK SWARTZ: Not at this time.  
14 MARY QUILLEN: I have...Mr. Chairman, I have  
15 just one question about the shoals. These seem like  
16 very, very, very small targets.  
17 IAN LUCAS: They are.  
18 MARY QUILLEN: All of the...I guess, the gas is  
19 collected in these very small targets. So, if you hit  
20 outside of those, what...I mean, what would you...what  
21 would you---?  
22 BRUCE PRATHER: Be a dry hole.  
23 IAN LUCAS: It would be a dry hole.  
24 MARY QUILLEN: Right. So, what would your  
25 solution be? I mean, would you move it to another

1 location since you have designated these shoals as your  
2 target?

3 IAN LUCAS: When...I proposed this project in  
4 the beginning to pursue post...the rework that was  
5 successful, which from a geologist standpoint I have to  
6 play the game of odds and say I need five wells probably  
7 to give you two or three good ones.

8 MARY QUILLEN: Right. Right.

9 IAN LUCAS: The budget constraints won't always  
10 allow me to have it the geologic way. So, you know,  
11 when budget constraints say---

12 MARY QUILLEN: So, you do have---?

13 IAN LUCAS: ---you have two, I have to pick the  
14 best two that I can and still hope to hit those targets.  
15 So, if those are dry holes...there is a risk of a dry  
16 hole. However,---

17 MARY QUILLEN: Right.

18 IAN LUCAS: ---the nature of the Big Lime being  
19 shallower than the shales and the stimulations and such  
20 that we use on the Big Lime, they're relatively  
21 inexpensive from a relative...from a comparative  
22 standpoint to other targets that we go after. So, the  
23 upside is worth the risk of taking a dry hole potential.

24 MARY QUILLEN: Okay, that was point is, you  
25 know, there are some of these other horizons that

1 are...that have much higher percentage of production.  
2 IAN LUCAS: Right.  
3 MARY QUILLEN: And why would you target such  
4 small targets in a---?  
5 IAN LUCAS: The cost is low enough that if you  
6 get them the economics are awesome.  
7 MARY QUILLEN: That it is cost effective. That  
8 if you hit, you hit it big time. If you miss it, it's  
9 not---.  
10 BRUCE PRATHER: It's a dry hole.  
11 MARY QUILLEN: It's not that big of a problem  
12 because it is relatively inexpensive compared...in  
13 comparison to other---.  
14 IAN LUCAS: Right. And from a geologic  
15 standpoint, again, that dry hole is still an important  
16 data point for me---.  
17 MARY QUILLEN: Right. Right. Right.  
18 IAN LUCAS: ---as to better refine where to go  
19 next.  
20 MARY QUILLEN: Right. I gotcha.  
21 BRUCE PRATHER: Is there any Weir or Berea below  
22 the Big Lime?  
23 IAN LUCAS: There are. However, there...in this  
24 particular area from the couple datas that I have the  
25 Berea actually is not very well developed. So, it's not

1 even worth taking deeper to try for it when you can cap  
2 costs off and just stopping at the Big Lime here.

3 MARK SWARTZ: There's something else going on  
4 with regard to the development as well. I mean, in  
5 terms of the availability of coalbed methane that hasn't  
6 been developed or is already leased, the availability of  
7 other place...I mean, we're getting to the point where  
8 perhaps we need to be a little more inventive in terms  
9 of locating reservoir and potential well locations. I  
10 mean, is that part of what's going on here as well?

11 IAN LUCAS: Absolutely. If you're under  
12 utilizing your infrastructure then there's always a push  
13 to maximize...if you've got the compression and the  
14 pipelines in place what else can we be utilizing that  
15 with. The Big Lime it's not going to be  
16 regionally...you know, it's not going to be regionally,  
17 but it's going to have its areas where, you know, I  
18 think it will be a great oil and gas target.

19 BRUCE PRATHER: See most of the people that have  
20 drilled in West Virginia and even into Virginia here  
21 they've either had the Weir or the Berea as their  
22 principle reservoir. Consequently, you have these  
23 shoals up the hole in the Big Lime.

24 IAN LUCAS: Right.

25 BRUCE PRATHER: Most of them are behind the

1 cement, all of the wells that I know of.

2 IAN LUCAS: Right.

3 BRUCE PRATHER: In my opinion, I wouldn't want  
4 to make a living drilling Big Lime wells.

5 IAN LUCAS: No. No. If you were coming out to  
6 make a stand alone company maker or project, you're not  
7 going to make it.

8 BRUCE PRATHER: Yeah.

9 IAN LUCAS: But, you know, where we already have  
10 everything in place, it's certainly is a nice secondary.

11 BRUCE PRATHER: Well, if you've got the wells  
12 drilled and you've got this stuff behind pipe up the  
13 hole---.

14 IAN LUCAS: Right.

15 BRUCE PRATHER: ---that's money in the bank.

16 IAN LUCAS: Absolutely.

17 MARY QUILLEN: That goes back to what I said  
18 cost effective that, you know, you would not lose that  
19 much to...with the possibility of taking that risk.  
20 What are the percentages or would you---?

21 IAN LUCAS: I haven't actually assigned anything  
22 in that regard.

23 MARY QUILLEN: Of what your success would be.  
24 But you still...it's like if you hit it you hit it big  
25 and it would...you would be...but if you---

1           BRUCE PRATHER: One of the other problems that  
2 I've found with the Big Lime is that as that Big Lime  
3 gets thicker...in other words, from this map here you've  
4 got...if you go southeast the Big Lime over there to get  
5 1200 or 1300 foot deep whereas over here in Virginia and  
6 into Kentucky that Big Lime will get up to where it's  
7 only 200 foot thick there at the so called shoreline.  
8 Basically, what experience I have there's quite a bit in  
9 McDowell and Mercer is you don't have very much Big  
10 Lime, you know, the Oolite development over there. Now,  
11 it does get better as you go back to where the Lime is a  
12 little shallower, you know, and get a little more  
13 development.

14           IAN LUCAS: And the reason that this is even  
15 brought forth is just because we have the opportunity to  
16 complete behind the pipe reserves and because it did  
17 work and the way it worked it was worth---.

18           BRUCE PRATHER: Yeah.

19           IAN LUCAS: ---a couple extra---.

20           BRUCE PRATHER: Right.

21           IAN LUCAS: ---drilling locations. It was  
22 worth putting the budget.

23           BRUCE PRATHER: Right. That basically is the  
24 way most of them handle it is behind the pipe.

25           IAN LUCAS: Absolutely. Yeah.



1           MARK SWARTZ: Well, your...and would it fair to  
2 say depending on how these two wells turn out if you're  
3 allow to do them it's going to...it's going to give you  
4 a fairly clear indication of, you know, how enthusiastic  
5 are you going to be about moving forward or just putting  
6 the cork in the bottle here, you know. I mean, it's if  
7 you get a couple...if one of these two wells turns out  
8 to be good, I assume you're going to keep going forward.  
9 If they're both dry holes, I think you're going to have  
10 a much harder sell for your company. I mean, is that  
11 generally what you're...what you're looking at here?  
12           IAN LUCAS: That would be a fair statement.  
13           MARK SWARTZ: Okay.  
14           BUTCH LAMBERT: Any other questions?  
15           (No audible response.)  
16           BUTCH LAMBERT: Anything further, Mr. Swartz?  
17           MARK SWARTZ: No.  
18           BUTCH LAMBERT: Do I have a motion on thirty-  
19 seven and thirty-nine?  
20           MARY QUILLEN: Motion to approve.  
21           BRUCE PRATHER: Second.  
22           BUTCH LAMBERT: I have a motion and a second.  
23 Any further discussion?  
24           (No audible response.)  
25           BUTCH LAMBERT: All in favor, signify by saying

1 yes.

2 (All members signify by saying yes, but Katie  
3 Dye.)

4 BUTCH LAMBERT: Opposed, no.

5 KATIE DYE: I'll abstain.

6 BUTCH LAMBERT: One abstention Mrs. Dye. Good  
7 luck to you and drive safe.

8 IAN LUCAS: Thank you everybody.

9 BUTCH LAMBERT: We're calling docket item  
10 thirty-one. It's a petition from CNX Gas Company, LLC  
11 for repooling of unit BC-120, docket number VGOB-03-  
12 0218-1115-01. All parties wishing to testify, please  
13 come forward.

14 MARK SWARTZ: Mark Swartz and Anita Duty.

15 BUTCH LAMBERT: You may proceed, Mr. Swartz.

16 MARK SWARTZ: Thank you.

17

18 ANITA DUTY

19 having been duly sworn, was examined and testified as  
20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Anita, state your name for us, please.

24 A. Anita Duty.

25 Q. I'm going to remind you're still under

1 oath?

2 A. Yes.

3 Q. This is a CBM well, correct?

4 A. Yes.

5 MARK SWARTZ: I'd like to incorporate Anita  
6 prior testimony with regard to her pooling  
7 responsibilities and with regard to her testimony  
8 concerning leased terms for CBM.

9 BUTCH LAMBERT: Accepted.

10 Q. This one we've got an amended notice of  
11 hear. I guess the original was October the 17th...I'm  
12 sorry, the original notice of hearing went out and then  
13 you've got an amended notice of hearing, right?

14 A. Yes.

15 Q. Okay. And the amended...thirty-one  
16 is...the amended pertains to thirty-two, correct?

17 A. It does.

18 Q. Okay. So, let's stay with thirty-one.  
19 Okay, this is a repooling application. This was  
20 originally...it looks like it was pooled probably in  
21 '03. What's the reason for the repooling?

22 A. Hold on just a second.

23 Q. No problem.

24 A. It's the Commonwealth of Virginia again.

25 Q. They're just trouble, right?

1           A.     Well, actually, I think this unit is  
2 south of the one that we did earlier. So---.

3           Q.     Okay. Okay. So, when we look at the  
4 plat here, there is a state road that runs north and  
5 south through this unit, right?

6           A.     Yes.

7           Q.     And is that the...I guess, it's...is that  
8 the tract that has required the repooling?

9           A.     It is.

10          Q.     Okay. And what was...was it discovered  
11 that there was also an oil and gas interest as opposed  
12 to just surface or what happened with regard to that?

13          A.     The interpretations changed from prior  
14 mapping.

15          Q.     Okay. So, it turns out that the  
16 interpretation now is that the Commonwealth actually has  
17 an oil and gas interest in this unit?

18          A.     Yes.

19          Q.     Okay. And what did you do to not only  
20 advise the Commonwealth but other people that you've  
21 listed as respondents that there was going to be a  
22 hearing today?

23          A.     Mailed by certified mail, return receipt  
24 requested on September the 16th. We published in the  
25 Bluefield Daily Telegraph on September the 22nd, 2011.

1 Q. Okay. And when you published, what  
2 appeared in the newspaper?

3 A. The notice and location map.

4 Q. And do you have with you to deliver to  
5 Mr. Cooper both your certificates with regard to mailing  
6 and your proof of publication with regards to the paper?

7 A. Yes.

8 Q. Okay. And with regard to BC-120, what  
9 interests have you acquired and what is it that you're  
10 seeking to pool?

11 A. We've acquired 97.506% of the coal  
12 owner's claim and 81.456% of the oil and gas owner's  
13 claim. Seeking to pool 2.494% of the coal owner's claim  
14 to the CBM and 18.5440% of the gas owner's claim.

15 Q. And it looks like you've provided the  
16 Board with the well cost estimate. Is that the one that  
17 was---?

18 A. It's from the previous.

19 Q. ---from the original pooling so that the  
20 Commonwealth would have an opportunity to participate if  
21 it chose to do so at the same...on the same basis that  
22 the other people do?

23 A. Yes.

24 Q. Okay. And what's the amount of  
25 that...what was the amount of that estimate back in

1 January of '03?

2 A. \$223,578.88.

3 Q. And this well obviously was drilled?

4 A. Yes.

5 Q. Okay. And the permit number?

6 A. 5336.

7 Q. Okay. Is there an existing escrow

8 account?

9 A. There is.

10 Q. And that would have to continue forward?

11 A. Yes, it would.

12 Q. Okay. And with regard to the escrow

13 account, could you...could you give us the tracts that

14 are subjected to escrow and an indication of why the

15 money is being escrowed?

16 A. Okay. 1A is the normal conflict as well

17 as a title conflict. Then 1B, 1C, 1D, 1E, 1I, 1J, 1K

18 and 1L is for just a normal conflict between the coal

19 and the oil and gas owner. 2A, 2B, 2C, 2D, 2E, 2F, 2G,

20 2H and 3 are traditional conflict in addition to a title

21 conflict. Tract 3 has unknowns and unlocateables.

22 Q. And it looks like you don't have any

23 split agreements pertaining to this unit, is that

24 correct?

25 A. That's correct.

1                   MARK SWARTZ:    Okay.    I believe that's all I  
2 have, Mr. Chairman.

3                   BUTCH LAMBERT: Any questions from the Board?  
4                   (No audible response.)

5                   BUTCH LAMBERT: Anything further, Mr. Swartz?

6                   MARK SWARTZ: No.

7                   BUTCH LAMBERT: Do I have a motion?

8                   MARY QUILLEN: Motion to approve.

9                   BRUCE PRATHER: Second.

10                  BUTCH LAMBERT: I have a motion and a second.  
11 Any further discussion?

12                  (No audible response.)

13                  BUTCH LAMBERT: All in favor, signify by saying  
14 yes.

15                  (All members signify by saying yes, but Katie  
16 Dye.)

17                  BUTCH LAMBERT: Opposed, no.

18                  KATIE DYE: I'll abstain.

19                  BUTCH LAMBERT: One abstention Mrs. Dye. We're  
20 calling docket item number thirty-two. A petition from  
21 CNX Gas Company, LLC for repooling of unit BD-120,  
22 docket number VGOB-05-0215-1398-01. All parties wishing  
23 to testify, please come forward.

24                  MARK SWARTZ: Mark Swartz and Anita Duty.

25                  BUTCH LAMBERT: You may proceed, Mr. Swartz.

1                   MARK SWARTZ: Thank you.

2

3                   ANITA DUTY

4           having been duly sworn, was examined and testified as  
5           follows:

6                   DIRECT EXAMINATION

7           QUESTIONS BY MR. SWARTZ:

8                   Q.       Anita, state your name for us again.

9                   A.       Anita Duty.

10                  Q.       Okay. This is a repooling, correct?

11                  A.       Yes.

12                  Q.       And also...and this one also has an  
13           amended notice of hearing, right?

14                  A.       That is the one with the amended, yes.

15                  Q.       Okay. Okay. And as...in the amended  
16           notice of hearing, have you listed all of the...people  
17           that need to be respondents?

18                  A.       Yes.

19                  Q.       Do you want to add any today?

20                  A.       No.

21                  Q.       Do you want to dismiss any?

22                  A.       No.

23                  Q.       Okay. What did you do to advise the  
24           respondents that there would be a hearing today?

25                  A.       Mailed by certified mail, return receipt



1 requested on September the 16th, 2011 and then the  
2 amended on September the 23rd, 2011. We published in  
3 the Bluefield Daily Telegraph on September the 23rd and  
4 September the 29th.

5 Q. And in this BD-120 unit, what...what has  
6 the operator purchased or leased and what are you  
7 seeking to pool?

8 A. We've acquired 100% of the coal owners  
9 claim to the CBM and 82.9006% of the oil and gas owner's  
10 claim to the CBM. We are seeking to pool 17.0994% of  
11 the oil and gas owner's claim to the CBM.

12 Q. And with regard to the mailings of the  
13 original and the amended and the publication, have you  
14 brought with you your certificates with regard to  
15 mailing and proof of publication to either...to file  
16 with Mr. Cooper today?

17 A. Yes.

18 Q. Okay. What was it was the reason why  
19 this unit...why you sought to repool this unit? I mean,  
20 was it the state again?

21 A. Yes.

22 Q. Okay. And if we look at the plat,  
23 Exhibit A, we've got a road running sort of north and  
24 south again through the middle of this unit. Is that  
25 the road that we're talking about?

1           A.     It is.

2           Q.     And is that the only reason that provoked  
3 this repooling?

4           A.     It is.

5           Q.     And, again, what was the development with  
6 regard to that road that required repooling?

7           A.     It's actually considered surface, oil and  
8 gas.

9           Q.     Okay. So, the oil and gas came into  
10 play?

11          A.     It did.

12          Q.     Okay. And you've provided the Board with  
13 an estimate with regard to the well cost here and I  
14 assume that that is...if you look at it, it looks like  
15 it was the estimate that was originally provided when  
16 this was pooled?

17          A.     Yelp, it is.

18          Q.     So, if the Commonwealth were to  
19 participate, it would be able to participate on the same  
20 terms?

21          A.     Yes.

22          MARK SWARTZ: Okay. Mr. Chairman, I would ask  
23 that Anita's prior testimony with regard to her pooling  
24 responsibilities and with regard to deemed to have  
25 leased terms be incorporated.

1                    BUTCH LAMBERT: Accepted.  
2                    MARK SWARTZ: Thank you.  
3                    Q.        The...this well, I assume, has been  
4 drilled?  
5                    A.        Yes.  
6                    Q.        Do you know the permit number?  
7                    A.        6536.  
8                    Q.        And the approximate depth?  
9                    A.        2,661 feet.  
10                   Q.        And the amount of the original estimate?  
11                   A.        \$244,424.23.  
12                   Q.        Okay.     And there's already an escrow  
13 account?  
14                   A.        There is.  
15                   Q.        That would need to continue?  
16                   A.        Yes.  
17                   Q.        And what tracts are escrowed and the  
18 reasons for that?  
19                   A.        Tract 1B and 1C are for traditional coal,  
20 oil and gas, CBM claims.     Tract 1D is for the  
21 traditional coal, oil and gas claim in addition to a  
22 title conflict.     1E, 1F, 1H, 1I, 1J, 1K, 1N, 1P, 1Q, 1R,  
23 1S and 1T are...it's just the traditional coal, oil and  
24 gas owner's claim to CBM.     1U, 1V, 1W, 1X, 1Y, 1Z, 1AA,  
25 1BB and 1DD is for the claim to CBM in addition to a

1 title conflict and then 1CC is just the traditional CBM  
2 claim.

3 Q. And then we've got some unknowns as well?

4 A. 1C, 1E, 1I, 1BB and 1CC also have  
5 unknowns.

6 Q. Okay. And then there's a list...there's  
7 an Exhibit EE that you've provided with the application  
8 and that would...reference that would disclose the  
9 parties and the tracts who have split agreements?

10 A. Yes.

11 Q. Okay. And then sort of recap...well,  
12 strike that. This is a Middle Ridge unit, correct?

13 A. Yes.

14 Q. And it has 58.74 acres?

15 A. Yes.

16 MARK SWARTZ: I think that's all I have for the  
17 repooling.

18 BUTCH LAMBERT: Any questions from the Board?

19 (No audible response.)

20 BUTCH LAMBERT: Anything else, Mr. Swartz?

21 MARK SWARTZ: No.

22 BUTCH LAMBERT: Do I have a motion?

23 MARY QUILLEN: Motion to approve.

24 BRUCE PRATHER: Second.

25 BUTCH LAMBERT: I have a motion and a second.

1 Any further discussion?

2 (No audible response.)

3 BUTCH LAMBERT: All in favor, signify by saying

4 yes.

5 (All members signify by saying yes, but Katie

6 Dye.)

7 BUTCH LAMBERT: Opposed, no.

8 KATIE DYE: I'll abstain.

9 BUTCH LAMBERT: One abstention Mrs. Dye. We're

10 calling docket item thirty-four. A petition from CNX

11 Gas Company, LLC for pooling and location exception for

12 coalbed methane unit A-31, docket number VGOB-11-1115-

13 2999. All parties wishing to testify, please come

14 forward.

15 MARK SWARTZ: Mark Swartz and Anita Duty.

16 BUTCH LAMBERT: You may proceed, Mr. Swartz.

17

18 ANITA DUTY

19 having been duly sworn, was examined and testified as

20 follows:

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Anita, you need to state your name for us

24 again, please.

25 A. Anita Duty.

1 Q. I'll remind you that you're still under  
2 oath.

3 A. Okay.

4 MARK SWARTZ: I'd like to incorporate Anita's  
5 testimony with regard to her responsibilities concerning  
6 pooling and her testimony with regards to lease terms  
7 concerning the CBM.

8 BUTCH LAMBERT: Accepted.

9 MARK SWARTZ: Thank you.

10 Q. This unit...this pooling application  
11 pertains to unit A-31, correct?

12 A. Yes.

13 Q. What kind of unit is it?

14 A. An Oakwood 80 acre.

15 Q. Okay. And how many wells are we talking  
16 about?

17 A. One.

18 Q. And this well here is actually outside  
19 the drilling window?

20 A. Yes.

21 Q. And it is...can you tell the Board  
22 whether or not there is...the location of this well is  
23 driven by mining?

24 A. It is.

25 Q. Okay. And have you provided the Board

1 with a cost estimate with regard to that well?

2 A. Yes. \$335,060.

3 Q. Okay.

4 A. Estimated depth 2,575 feet.

5 Q. And since we're in front of the Board,  
6 we're pointing out to them that we do need a location  
7 exception for being outside of the window, but in the  
8 Oakwood field that there's mining. Is it your  
9 understanding that the Director of the Division, I  
10 guess, give a location exception under the Oakwood  
11 rules?

12 A. Yes.

13 Q. Okay. This...have you listed...have you  
14 given us a complete list of all the people that  
15 are...that need to be respondents?

16 A. Yes.

17 Q. Do you want to delete anybody from that  
18 list today or add anybody?

19 A. No.

20 Q. What did you do to notify them that we  
21 were having a hearing today?

22 A. Mailed by certified mail, return receipt  
23 requested on October the 14th, 2011. Published the  
24 notice and location map in the Bluefield Daily Telegraph  
25 on October the 24th, 2011.

1 Q. And have you provided or will you provide  
2 before you leave today Mr. Cooper with copies of your  
3 certificates concerning mailing and your proof of  
4 publication?

5 A. Yes.

6 Q. And with regard to this unit, what  
7 interests have the applicant either acquired or leased  
8 and what is it that you're seeking to pool?

9 A. We've acquired 87.1919% of the coal  
10 owner's claim to the CBM and 71.2008% of the oil and gas  
11 owner's claim to the CBM. We're seeking to pool  
12 12.8081% of the coal owner's claim to the CBM and  
13 28.7992% of the oil and gas owner's claim to the CBM.

14 Q. And you've provided a cost estimate,  
15 correct?

16 A. Yes.

17 Q. I think we covered that, right?

18 A. Yes.

19 Q. Okay. You do not have a permit yet?

20 A. No.

21 Q. Okay. The proposed depth is what?

22 A. 2,575 feet.

23 Q. Okay. And is there escrow required in  
24 this unit?

25 A. For Tract 1 and also it has unknowns in



1 that tract also.

2 Q. Okay. And you've provided the Board as  
3 part of your application with an Exhibit E with regard  
4 to escrow?

5 A. Yes.

6 Q. Are there any split agreements?

7 A. No.

8 Q. Okay. Is it your opinion that drilling a  
9 frac well in this unit is a reasonable way to produce  
10 the coalbed methane from this unit and in particular  
11 with regard to degas operations for the mining on the  
12 proposed under the unit?

13 A. Yes.

14 Q. Is it your further opinion that if you  
15 combine a pooling order pooling the respondents named in  
16 your application with the agreements...pooling them with  
17 the people that you have reached agreements with either  
18 in terms of acquisition or leasing that the correlative  
19 rights of all owners and claimants would be protected?

20 A. Yes.

21 MARK SWARTZ: That's all I have with regard to  
22 this one.

23 BUTCH LAMBERT: Ms. Duty, the well location  
24 exception I suppose is for underground mining?

25 ANITA DUTY: It is.

1           BUTCH LAMBERT: And active works at this time?  
2           ANITA DUTY: They don't appear to be active. It  
3 looks like proposed.  
4           BUTCH LAMBERT: It's proposed works?  
5           ANITA DUTY: I actually have a---.  
6           BUTCH LAMBERT: Being proposed?  
7           ANITA DUTY: Yes.  
8           BUTCH LAMBERT: Okay. Could you...you know, in  
9 the future, could you start providing us a copy of those  
10 maps when well locations are being requested because of  
11 mining just for our information?  
12           ANITA DUTY: I can. Actually, this is just a  
13 copy of what was requested from Mr. Cooper and they just  
14 put a copy in here. So, if you all want it, we can do  
15 the same thing.  
16           BUTCH LAMBERT: Okay. Sure, if you could do  
17 that. We'd appreciate that. Thank you.  
18           ANITA DUTY: Okay.  
19           BUTCH LAMBERT: Any other questions from the  
20 Board?  
21           (No audible response.)  
22           BUTCH LAMBERT: Anything further, Mr. Swartz?  
23           MARK SWARTZ: No.  
24           BUTCH LAMBERT: Do I have a motion?  
25           MARY QUILLEN: Motion to approve.

1                   BRUCE PRATHER: Second.

2                   BUTCH LAMBERT: Motion and a second. Any

3 further discussion?

4                   (No audible response.)

5                   BUTCH LAMBERT: All in favor, signify by saying

6 yes.

7                   (All members signify by saying yes, but Katie

8 Dye.)

9                   BUTCH LAMBERT: Opposed, no.

10                  KATIE DYE: I'll abstain.

11                  BUTCH LAMBERT: One abstention Mrs. Dye. Thank

12 you, Mr. Swartz. It's approved. We're calling docket

13 item thirty-five. It's a petition from CNX Gas Company,

14 LLC for pooling and location exception for coalbed

15 methane unit D-47, docket number VGOB-11-1115-3000. All

16 parties wishing to testify, please come forward.

17                  MARK SWARTZ: Mark Swartz and Anita Duty.

18                  BUTCH LAMBERT: You may proceed, Mr. Swartz.

19                  MARK SWARTZ: I will point out to the Board

20 before we get started that the original application plat

21 actually had two wells. One slightly to the west of the

22 drilling window and up toward the north and one south of

23 the drilling window and over to the east and the revised

24 plat removes the one to the west.

25

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ANITA DUTY

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. So, we're...how many wells are we talking about in this proposed unit?

A. Just one.

Q. Okay. And it's the D-47B well?

A. Yes.

Q. Okay. What kind of unit is this?

A. This is an Oakwood 80 acre.

Q. And we're talking about one well, which is documented by the revised plat?

A. Yes.

Q. Okay. What did you do to notify the people you've listed as respondents that we were going to have a hearing today?

A. Mailed by certified mail, return receipt requested on October the 14th, 2011. I published the notice and location map in the Bluefield Daily Telegraph on October the 25th, 2011.

Q. And have you provided copies of your certificates with regard to mailing and the proof of publication to Mr. Cooper?

1           A.     Yes.

2           Q.     What interest does the applicant already  
3 have in this unit and what is it that you're seeking to  
4 pool?

5           A.     We've acquired a 100% of the coal owner's  
6 claim to the CBM and 98.275% of the oil and gas owner's  
7 claim to the CBM. We are seeking to pool 1.725% of the  
8 oil and gas owner's claim to the CBM.

9           Q.     And have you provided a well cost  
10 estimate?

11          A.     Yes. \$293.916.47.

12          Q.     That's for a frac well?

13          A.     Yes.

14          Q.     Okay. And do you already have a permit?

15          A.     Yes. 1816.

16          Q.     Okay. And you were able to get that  
17 permit because of the Oakwood Rules allowing wells to be  
18 located in conjunction with mining, correct?

19          A.     Yes.

20          Q.     Do you have a map with regard to mining  
21 under this unit as well that you can display?

22                (Anita Duty displays the map.)

23          Q.     And the blue color represents what  
24 existing mining or proposed mining?

25          A.     I think they're both proposed. It's just

1 different seams.

2 Q. Okay. And the D-47B well is just outside  
3 of the mining, correct?

4 A. Yes.

5 Q. Okay. Which is...which is what drove the  
6 location, I assume?

7 A. It is.

8 Q. Okay. Do you need to add anybody to the  
9 list of respondents or subtract anybody?

10 A. No.

11 MARK SWARTZ: I'd like to incorporate Anita's  
12 testimony with regard to her duties, with regard to  
13 pooling and her testimony concerning standard lease  
14 terms for coalbed methane.

15 BUTCH LAMBERT: Accepted.

16 MARK SWARTZ: Thank you.

17 Q. I don't think I asked you the depth of  
18 this well.

19 A. 1,840 feet.

20 Q. Okay. Do we...it looks like we don't  
21 have an escrow requirement, is that correct?

22 A. Yes, we do for Tract 2.

23 Q. Okay. Sorry. Oh, yes, you've got an  
24 Exhibit E. And is the reason for escrow here the  
25 conventional conflict---?

1 A. Yes.

2 Q. ---between oil, gas and coal?

3 A. It is.

4 Q. Okay. And there are no split agreements?

5 A. No.

6 Q. Is it your opinion that drilling a frac  
7 well in this unit and the location proposed will produce  
8 coalbed methane resources from under the unit and will  
9 also serve to degas in advance of mining?

10 A. Yes.

11 Q. And is it your opinion that if you  
12 combine a pooling order pooling the folks listed as  
13 respondents with the...pooling them with people that you  
14 have acquired leases from and other ownership agreements  
15 with that the correlative rights of all owners and  
16 claimants to the gas will be protected?

17 A. Yes.

18 MARK SWARTZ: That's all I have, Mr. Chairman.

19 BUTCH LAMBERT: Any questions from the Board?

20 (No audible response.)

21 BUTCH LAMBERT: Anything further, Mr. Swartz?

22 MARK SWARTZ: No.

23 BUTCH LAMBERT: Do I have a motion?

24 MARY QUILLEN: Motion to approve.

25 BRUCE PRATHER: Second.

BUTCH LAMBERT: Motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All in favor, signify by saying  
yes.

(All members signify by saying yes, but Katie Dye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: I'll abstain.

BUTCH LAMBERT: One abstention Mrs. Dye. Calling docket item number thirty-six. A petition from CNX Gas Company, LLC for creation of a drilling unit and pooling for convention gas unit 078ACV, docket number VGOB-11-1115-3001. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you.

ANITA DUTY

having been duly sworn, was examined and testified as follows:

## DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Would you state your name for us, Anita?



1                   A.       Anita Duty.

2                   Q.       I'll remind you that you're still under  
3 oath.

4                   A.       Yes.

5                   MARK SWARTZ: Mr. Chairman, I'd like to  
6 incorporate Anita's testimony with regard to her  
7 responsibilities concerning pooling and her testimony  
8 with regard to standard lease terms for conventional.

9                   BUTCH LAMBERT: Accepted.

10                  MARK SWARTZ: Thank you.

11                  Q.       Anita, before we get going, what's the  
12 reason behind the revised exhibits?

13                  A.       We just need to show that one of  
14 the...there was a Range Resource lease. We showing  
15 that...we've been told that it's expired. We've also  
16 picked up some additional leases. Well, actually one of  
17 the leases that expired, we picked up.

18                  Q.       Okay. So, you've leased some additional  
19 folks and so you can change the list of respondents and  
20 you did that?

21                  A.       Yes.

22                  Q.       And you showed on Exhibit B-2 the names  
23 of the folks that could be dismissed?

24                  A.       Yes.

25                  Q.       Okay. Other than dismissing the people

1 listed on Exhibit B-2, do you want to dismiss anybody  
2 else from the original list of respondents?

3 A. No.

4 Q. Do you want to add anybody?

5 A. No.

6 Q. What did you do to notify all of the  
7 respondents listed on your original notice of hearing  
8 that there was going to be a hearing today?

9 A. Mailed by certified mail, return receipt  
10 requested on October the 14th, 2011. Published the  
11 notice and location map in the Bluefield Daily Telegraph  
12 on October the 24th, 2011.

13 Q. And have you provided Mr. Cooper with  
14 copies of your certificates concerning mailing and your  
15 proof of publication?

16 A. Yes.

17 Q. This is a statewide spacing unit?

18 A. It is.

19 Q. So, it's a circle, right?

20 A. Yes.

21 Q. And how many acres does it contain?

22 A. 112.69.

23 Q. And you've got a map of it in your  
24 application?

25 A. I do.

1 Q. And the well bore is in the center of the  
2 circle?  
3 A. It is.  
4 Q. Okay. And this is a conventional well?  
5 A. Yes.  
6 Q. And what...what formation is the target  
7 formation here?  
8 A. The Lower Huron.  
9 Q. Okay. Have you provided a cost estimate?  
10 A. Yes. \$516,949. The estimated depth is  
11 6,200 feet.  
12 Q. Okay. Do you have a permit yet?  
13 A. No.  
14 Q. Okay. What interests have you acquired  
15 in this conventional unit and what interests are you  
16 seeking to pool?  
17 A. We've acquired 53.2316% of the oil and  
18 gas. We are seeking to pool 46.7684% of the oil and  
19 gas.  
20 Q. And that reflects the new numbers as a  
21 result of the leasing and so forth?  
22 A. It does.  
23 Q. Okay. Tell us about the well here.  
24 A. I did.  
25 Q. Oh, you did?

1 A. Yes.

2 Q. I'm losing it. Did we go to the depth  
3 though? I'm thinking we didn't.

4 A. 6,200 feet.

5 Q. Okay. And is it your opinion that this  
6 conventional well is a reasonable way of testing for  
7 development in the Lower Huron in this unit?

8 A. Yes.

9 Q. And is it your opinion that you have  
10 captured either by leasing or agreement or by listing  
11 them as respondents in this pooling hearing all of the  
12 folks who have correlative rights for the production  
13 from this unit?

14 A. Yes.

15 Q. And if a pooling order is entered and you  
16 take that in conjunction with your voluntary agreements,  
17 all interest will be covered?

18 A. Yes.

19 MARK SWARTZ: That's all I have, Mr. Chairman.

20 BUTCH LAMBERT: Any questions from the Board?

21 (No audible response.)

22 BUTCH LAMBERT: Do I have a motion?

23 MARY QUILLEN: Motion to approve.

24 BRUCE PRATHER: Second.

25 BUTCH LAMBERT: Motion and a second. Any

1 further discussion?

2 (No audible response.)

3 BUTCH LAMBERT: All in favor, signify by saying

4 yes.

5 (All members signify by saying yes, but Katie

6 Dye.)

7 BUTCH LAMBERT: Opposed, no.

8 KATIE DYE: I'll abstain.

9 BUTCH LAMBERT: One abstention Mrs. Dye. The

10 next item on the docket is thirty-eight. A petition

11 from CNX Gas Company, LLC for pooling of coalbed methane

12 unit ZZZ-31, docket number VGOB-11-1115-3004. All

13 parties wishing to testify, please come forward.

14 MARK SWARTZ: Mark Swartz and Anita Duty.

15 BUTCH LAMBERT: You may proceed, Mr. Swartz.

16

17 ANITA DUTY

18 having been duly sworn, was examined and testified as

19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Anita, state your name for us, please.

23 A. Anita Duty.

24 MARK SWARTZ: I'd like to incorporate her

25 testimony with regard to pooling responsibilities and

1 with regard to lease terms for coalbed methane.  
2 BUTCH LAMBERT: Accepted.  
3 MARK SWARTZ: Thank you.  
4 Q. Anita, this pertains...this is a pooling  
5 application for what unit?  
6 A. ZZZ-31.  
7 Q. It's in what field?  
8 A. Oakwood.  
9 Q. How many acres in the unit?  
10 A. 80.  
11 Q. How many wells are we proposing?  
12 A. One.  
13 Q. Is it in the drilling window?  
14 A. Yes.  
15 Q. And what's your estimate with regard to  
16 its cost?  
17 A. \$356,486.  
18 Q. And is it a frac well?  
19 A. Yes.  
20 Q. You do not have a permit yet or do you?  
21 A. Do not.  
22 Q. And the proposed depth?  
23 A. 2,250 feet.  
24 Q. And in this CBM unit, what interests have  
25 you been able to acquire and what is it that you're

1 seeking to pool?

2 A. We have acquired 86.6839% of the coal  
3 owner's claim to the CBM and 86.4286% of the oil and gas  
4 owner's claim to the CBM. We are seeking to pool  
5 13.3161% of the coal owner's claim to the CBM and  
6 15.5714% of the oil and gas owner's claim to the CBM.

7 Q. In that regard, in the notice and in  
8 Exhibit B-3 have you listed all of the folks as  
9 respondents that you do not have agreements with who  
10 have claims in this unit?

11 A. Yes.

12 Q. Do you want to add anybody?

13 A. No.

14 Q. Do you want to dismiss anybody?

15 A. No.

16 Q. What did you do to let those people know  
17 that there was going to be a hearing today?

18 A. Mailed by certified mail, return receipt  
19 requested on October the 14th, 2011. Published the  
20 notice and location map in the Bluefield Daily Telegraph  
21 on October the 22nd, 2011.

22 Q. And have you provided copies of your  
23 certificates with regard to mailing and your proof of  
24 publication to Mr. Cooper?

25 A. Yes.

1 Q. Is there escrow requirement here?  
2 A. There is for Tract 3.  
3 Q. Okay. And you've provided the Board with  
4 an Exhibit E in that respect?  
5 A. Yes.  
6 Q. Any split agreements that you're aware  
7 of?  
8 A. No, but there's also an unknown in Tract  
9 3.  
10 Q. Okay. Oh, I see that. Okay, so, there's  
11 the reason of just the traditional conflict between and  
12 oil, gas and coal, but we've also got an address unknown  
13 in Tract 3?  
14 A. Yes.  
15 Q. Okay. Is it your opinion that if you  
16 combine a pooling order pooling the respondents named in  
17 the application and the notice and pooling them with the  
18 folks that you have obtained leases from or have  
19 acquired ownership from that the correlative rights of  
20 all owners and claimants will be protected?  
21 A. Yes.  
22 Q. Is it your opinion that drilling a  
23 coalbed methane frac well at the location shown on the  
24 plat for ZZZ-31 is a reasonable way to develop the  
25 coalbed methane?



1 A. Yes.

2 MARK SWARTZ: I think that's all I have, Mr.

3 Chairman.

4 BUTCH LAMBERT: Any questions from the Board?

5 (No audible response.)

6 BUTCH LAMBERT: Do I have a motion?

7 MARY QUILLEN: Motion to approve.

8 BRUCE PRATHER: Second.

9 BUTCH LAMBERT: Motion and a second. Any

10 further discussion?

11 (No audible response.)

12 BUTCH LAMBERT: All in favor, signify by saying

13 yes.

14 (All members signify by saying yes, but Katie

15 Dye.)

16 BUTCH LAMBERT: Opposed, no.

17 KATIE DYE: I'll abstain.

18 BUTCH LAMBERT: One abstention Mrs. Dye. The

19 next item on the docket is item forty. A petition from

20 CNX Gas Company, LLC for repooling of coalbed methane

21 unit J-37, docket number VGOB-07-0116-1853-01. All

22 parties wishing to testify, please come forward.

23 MARK SWARTZ: Mark Swartz and Anita Duty.

24 BUTCH LAMBERT: You may proceed, Mr. Swartz.

25 MARK SWARTZ: Thank you.

1 (Exhibits are passed out.)

2

3 ANITA DUTY

4 having been duly sworn, was examined and testified as  
5 follows:

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. SWARTZ:

8 Q. Anita, this is a repooling, correct?

9 A. Yes.

10 Q. And what are...what is the reason or the  
11 collection of reasons that repooling was required here?  
12 like...it effected several tracts.

13 Q. It looks like it effected the majority of  
14 the tracts, doesn't it?

15 A. Yes. It's basically just a remapping of  
16 the unit.

17 Q. Okay. So, in that regard because the  
18 percentages are going to change for nearly everyone,  
19 there's going to be a participation right again---?

20 A. Yes.

21 Q. ---because the percentages changed? So,  
22 just for purposes of Sharon drafting the order or  
23 whoever does it, pretty much everybody is going to  
24 need...is it you?

25 A. Yeah.

1 Q. Okay. There's going to be...we're going  
2 to need to include that right.

3 A. Okay.

4 Q. Getting back then to the basics here.  
5 This is what kind of a unit?

6 A. Oakwood 80.

7 Q. And it actually contains 80 acres,  
8 correct?

9 A. Yes.

10 Q. And we're talking about one well?

11 A. Two wells.

12 Q. Two wells, okay. We've got...oh, and  
13 they're both in the window, correct?

14 A. Yes.

15 Q. And did you previously provide well cost  
16 estimates with regard to these?

17 A. Yeah. I think one is old and one is new.

18 Q. Okay.

19 A. Let me check.

20 (Anita Duty reviews her file.)

21 A. Yeah.

22 Q. Okay. So, we've got an old from '06 it  
23 looks like?

24 A. Yes.

25 Q. And what was the amount of that?

1 A. \$202,882.08.  
2 Q. And that well would have already been  
3 drilled?  
4 A. Yes.  
5 Q. The permit number?  
6 A. 7443.  
7 Q. And the total depth?  
8 A. 1,561.04 feet.  
9 Q. Okay. And this looks like we've got an  
10 infill opportunity here, correct?  
11 A. Yes.  
12 Q. And so we've got a new well cost estimate  
13 for another well and what's the amount of that estimate?  
14 A. \$440,847.95.  
15 Q. And the...do you have a permit for that?  
16 A. Yes. 11803.  
17 Q. And the proposed depth of that well?  
18 A. 2,010 feet.  
19 Q. And have you in tract ID and your Exhibit  
20 B-3 then revised all of the acreages and percentages to  
21 be congruent with the new mapping?  
22 A. Yes.  
23 Q. Okay. What did you do to notify people  
24 that you had previously pooled that there was going to  
25 be another hearing and repooling today?

1           A.       Mailed by certified mail, return receipt  
2 requested on October the 14th, 2011.   Published the  
3 notice and location map in the Bluefield Daily Telegraph  
4 on October the 24th, 2011.

5           Q.       Okay.   Have you provided copies of your  
6 certificates with regard to mailing and your proof of  
7 publication to Mr. Cooper?

8           A.       Yes.

9           Q.       And do we have probably new percentages  
10 with regard to what the operator has acquired and what  
11 you're seeking to pool as a result of the remapping?

12          A.       Yes.

13          Q.       And what would those be?

14          A.       We've acquired 96.2322% of the coal, oil  
15 and gas owner's claim to CBM and we're seeking to pool  
16 3.7678% of the coal, oil and gas owner's claim to CBM.

17          Q.       All right.   Is there already an escrow  
18 account with regard to this unit?   It looks like it.

19          A.       I'm not sure.   I don't think there was  
20 before, but now we need to escrow that.   The coal below  
21 800 feet---.

22          Q.       Okay.   So, you've provided an Exhibit E  
23 that explains the reason for that?

24          A.       Yes.

25          Q.       Okay.   Do we have split agreements in

1 this unit that you're aware of?

2 A. No.

3 Q. Okay. Is it your opinion that if the  
4 pooling...if this is repooled that we will continue to  
5 protect the claims of both the owners and claimants to  
6 the...and their correlative rights to the...with regard  
7 to the royalty from the existing well and the proposed  
8 well?

9 A. Yes.

10 Q. Is it your opinion that drilling two  
11 wells in the drilling window of this unit is a  
12 reasonable way to develop the coalbed methane resource  
13 from within this unit?

14 A. Yes.

15 MARK SWARTZ: I'd like to incorporate Anita's  
16 testimony with regard to responsibilities concerning  
17 pooling and the lease terms, although I think they're  
18 probable already in the prior order, but just to be on  
19 the safe side.

20 BUTCH LAMBERT: Accepted.

21 MARK SWARTZ: I think that's...that's it.

22 BUTCH LAMBERT: Ms. Duty, what was the reason  
23 for the remapping of the unit?

24 ANITA DUTY: It just appears that the original  
25 mapping was incorrect or the allocation of the acreage

1 was incorrect. Where this is an older...the first well  
2 is older. They went back in with the infill well.

3 BUTCH LAMBERT: It was discovered when you  
4 applied for the infill well?

5 ANITA DUTY: Yes. Mapping issues whenever the  
6 permit goes out.

7 BRUCE PRATHER: Mr. Chairman.

8 BUTCH LAMBERT: Any other questions?

9 BRUCE PRATHER: I thought that the reason that  
10 you were doing is that you set up this new GPS system to  
11 take the place of the old tax maps that you had and that  
12 you had problems along those lines and it's just fitting  
13 the old wells into your new GPS system. Is that  
14 correct?

15 ANITA DUTY: I don't...I can't answer that. I  
16 don't know that.

17 BRUCE PRATHER: That's what I thought.

18 ANITA DUTY: I know that we're more accurate now  
19 than we were. That's about all I can say.

20 BRUCE PRATHER: I think there has been 10 or 15  
21 wells that you've brought in that you were making it fit  
22 your new GPS system. Remember you had people  
23 complaining because you didn't give them enough acreage  
24 because the GPS system cut them out a little bit?

25 MARK SWARTZ: We could have a really long

1 discussion about remapping because you're looking at two  
2 people who, you know, bear the brunt of the remapping  
3 responsibility. So, we're painfully aware of remapping.

4 ANITA DUTY: Yeah.

5 BRUCE PRATHER: The other problem that you might  
6 have and don't know whether this would effect anything,  
7 you've got 3.3% of this escrowed in an old well. When  
8 you remap this, does that change the escrow amount that  
9 you've being carrying down there the years?

10 ANITA DUTY: What we do, we go back from the  
11 very beginning of time, like how it exists today and if  
12 we...if it's due money, we make a lump sum deposit or if  
13 it's overpaid then we just wait until we recoup---.

14 BRUCE PRATHER: But you are taking care of that?

15 ANITA DUTY: Yes. We do take care of it, yes.

16 BUTCH LAMBERT: Anita, if I could ask you to  
17 turn to Exhibit E. Could you help explain what those  
18 boxes...those grey boxes are and I want you to talk  
19 about those for a moment? Well, they're grey on sheet.

20 ANITA DUTY: And I'm not a very good explainer,  
21 but I'll try it.

22 SHARON PIGEON: I was going to ask Mark to  
23 explain it after you finish.

24 ANITA DUTY: Well.

25 BUTCH LAMBERT: Yeah, Mark will put it in



1 simple...in simple English for us.

2 MARK SWARTZ: I'll translate. Yeah.

3 ANITA DUTY: In layman terms.

4 SHARON PIGEON: Well, think in terms of trying  
5 to draft an order to accommodate these two different  
6 scenarios apparently.

7 ANITA DUTY: Well, then...okay, let me just  
8 start from the beginning. On the coal side, the Unicon  
9 group owns all of the coal below 800 feet, which is the  
10 coal, you know, that is stimulated. Then on the oil and  
11 gas side, Norfolk Southern owns everything except that.  
12 So, what we do is pay them the difference between what  
13 was stimulated and what wasn't. So, whatever coal below  
14 800 feet or coal above 800 feet...you've got to help me.

15 SHARON PIGEON: Yeah, so far that's not helpful.

16 ANITA DUTY: It's a wonder I can even explain to  
17 my people.

18 MARK SWARTZ: Well, this is one of those rare  
19 occasions where I have no idea either.

20 (Laughs.)

21 ANITA DUTY: All right.

22 BUTCH LAMBERT: Tim, is dying to say something?

23 TIM SCOTT: I know the answer.

24 MARK SWARTZ: Okay.

25 BUTCH LAMBERT: Do you want to call him up to

1 testify for you.

2 SHARON PIGEON: Keep in mind that an order has  
3 to be drafted.

4 ANITA DUTY: Yeah, I know how to do it. I just  
5 don't know how to explain it. Hold on. If you look at  
6 say on the tract ID, for Tract 7 we're showing that  
7 Norfolk Southern owns everything except for coal below  
8 800 feet. So, they own everything in fee except for  
9 coal below 800 feet. Okay, then---.

10 MARK SWARTZ: Oh, I see what it is. It's the P3  
11 seam problem again.

12 ANITA DUTY: Well, it's---.

13 MARK SWARTZ: Right.

14 ANITA DUTY: ---the coal...it's the coal above  
15 800 feet is in conflict with Norfolk Southern owning  
16 everything else. So, we can pay Norfolk Southern a  
17 portion. So, any coal that was stimulated above 800  
18 feet has to be escrowed because they only own...they own  
19 everything except---.

20 BUTCH LAMBERT: The coal above 800 feet?

21 ANITA DUTY: Yes.

22 MARY QUILLEN: So, anything below 800 feet they  
23 own it and they get paid directly for that?

24 ANITA DUTY: They get paid a 100% of that.  
25 Anything that is coal above 800 feet is in conflict.

1           MARY QUILLEN: And anything above 800 is in  
2 conflict. So, that's escrowed. Are they in conflict  
3 with these people---?

4           ANITA DUTY: They are in conflict with the  
5 Unicon, et al group. The Consolidation Coal, Unicon,  
6 Buchanan---.

7           MARY QUILLEN: Unicon, yeah.

8           ANITA DUTY: Yes.

9           MARY QUILLEN: Yeah. Yeah. Those folks. And  
10 then this little box up above escrow 65.7241% of their  
11 interest in unit.

12           ANITA DUTY: We base that off of the coal that  
13 was stimulated at 800 feet and the---.

14           MARY QUILLEN: That's what's on the 8...that's  
15 on the 800 feet?

16           ANITA DUTY: Yes. We take the total coal that  
17 was stimulated and then we take the total coal that was  
18 stimulated above 800 feet---.

19           MARY QUILLEN: Right.

20           ANITA DUTY: ---and we divide that to get our  
21 percentage.

22           MARY QUILLEN: Right.

23           ANITA DUTY: So, we pay---.

24           MARY QUILLEN: But because there's a conflict,  
25 it's escrowed?

1           ANITA DUTY: Yes. But we do pay them a portion.  
2           SHARON PIGEON: But this is a different  
3 treatment for two different wells, so---?  
4           ANITA DUTY: Yes.  
5           MARK SWARTZ: Right.  
6           ANITA DUTY: Because the stimulation is  
7 different and the coal thicknesses.  
8           SHARON PIGEON: So, how is one escrow agent with  
9 one order going to be able to make that distinction?  
10          MARK SWARTZ: Well, when they pay royalty it's  
11 by wells. So, the escrow will...I mean, we will have  
12 internal records and if the escrow agent is look...I  
13 mean, I don't know what your instructions to them would  
14 be. But the royalty checks will identify the revenue by  
15 well. Right?  
16          ANITA DUTY: And both wells are deposited into  
17 the same account.  
18          MARY QUILLEN: And this applies to both  
19 wells...this applies...this 800 foot rule applies to  
20 both wells?  
21          MARK SWARTZ: Right. But it's escrowed...but  
22 it's treated differently. If you'll notice they're two  
23 colors. One is for J-37 and that's the escrow, the  
24 67.7241%, okay, and then they pay Norfolk Southern the  
25 other piece of the 100.

1                   MARY QUILLEN: Right.

2                   MARK SWARTZ: And then on the other one, on the  
3 J-37A they're escrowing a 100%. So, you know, the  
4 royalty checks that find their way to the escrow agent  
5 will be by well.

6                   MARY QUILLEN: Right.

7                   MARK SWARTZ: So, that...that will be accounted  
8 for.

9                   ANITA DUTY: We have no other owners in  
10 conflict. So, it's not an issue between different  
11 owners getting somebody else's escrow.

12                   SHARON PIGEON: Good luck with that.

13                   BRUCE PRATHER: I'm not too sure I would want to  
14 drill wells on properties like that.

15                   BUTCH LAMBERT: Any other questions?

16                   (Anita Duty and Mark Swartz confer among  
17 themselves.)

18                   MARK SWARTZ: We might as well, you know, share  
19 this with you because it was what was causing me to have  
20 some heartburn with a question you asked. The coal  
21 above 800 feet not stimulated does not refer to  
22 elevation in relation to the surface of the earth.

23                   ANITA DUTY: It does not.

24                   MARK SWARTZ: You know, I didn't know how to  
25 deal with that because I didn't think there was any

1 coalbed methane within...much within 800 feet of the  
2 surface of the earth here, okay. So, that made no sense  
3 to me. What Anita is telling me that's 800 feet deep  
4 underground that is not stimulated that is allocated to  
5 production. So, this is an underground...this pertains  
6 to the percentages that they're suing to allocate this  
7 rather than in relation to the surface. So---.

8 MARY QUILLEN: Now, that makes more sense.

9 MARK SWARTZ: And she will be able to craft that  
10 order. But that...this is not an 800 feet in relation  
11 to the surface of the earth. This is---.

12 MARY QUILLEN: That makes more sense, yeah. Uh-  
13 huh. Yeah.

14 ANITA DUTY: Completed zones, I guess.

15 MARK SWARTZ: Completed zones, okay. All right.

16 BRUCE PRATHER: A lot of these things are based  
17 on the lowest elevation, the underground level, you  
18 know, down to your streams and you'll say well there's  
19 where I start the 800 foot and go from there.

20 ANITA DUTY: And that's what we do. We---.

21 BRUCE PRATHER: Yeah, well, that makes sense.

22 ANITA DUTY: At the railroad because the  
23 railroad is where we have the problem. At the railroad,  
24 we get that elevation and we use that to do our  
25 initial---.

1           BRUCE PRATHER: Yeah.  
2           MARY QUILLEN: Yeah.  
3           BRUCE PRATHER: Yeah. That makes sense.  
4           MARY QUILLEN: That makes sense, yeah.  
5           BRUCE PRATHER: Yeah.  
6           ANITA DUTY: I'm sorry. I'm really just not---.  
7           MARY QUILLEN: No, it's all Mark's fault.  
8           (Laughs.)  
9           ANITA DUTY: Yes.  
10          MARK SWARTZ: Yeah. Well, you tried to punt it  
11 to me and I couldn't---.  
12          ANITA DUTY: I thought you knew what I was  
13 doing.  
14          MARK SWARTZ: Well, this make no sense. So, I'm  
15 sorry. But we got it organized.  
16          BUTCH LAMBERT: Okay. Are there any other  
17 questions from the Board?  
18          (No audible response.)  
19          BUTCH LAMBERT: Do I have a motion?  
20          MARY QUILLEN: Motion to approve.  
21          BRUCE PRATHER: Second.  
22          BUTCH LAMBERT: Motion and a second. Any  
23 further discussion?  
24          (No audible response.)  
25          BUTCH LAMBERT: All in favor, signify by saying

1 yes.  
2 (All members signify by saying yes, but Katie  
3 Dye.)  
4 BUTCH LAMBERT: Opposed, no.  
5 KATIE DYE: I'll abstain.  
6 BUTCH LAMBERT: One abstention Mrs. Dye.  
7 MARK SWARTZ: Thank you all so much. Have a  
8 good Thanksgiving.  
9 BRUCE PRATHER: You do same.  
10 BUTCH LAMBERT: You to. This has been a CNX day  
11 today. We're calling docket item forty-one. A petition  
12 from Range Resources-Pine Mountain, Inc. for a well  
13 location exception for proposed well V-530321, docket  
14 number VGOB-11-1115-3006. All parties wishing to  
15 testify, please come forward. Mr. Scott, how come you  
16 end up last every time?  
17 TIM SCOTT: It's just my burden is why.  
18 PHIL HORN: It's the client's fault getting them  
19 in late.  
20 SHARON PIGEON: Well, in this case, we had so  
21 many carried forward. You couldn't have gotten in ahead  
22 of those.  
23 (Gus Jansen is duly sworn.)  
24 TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn  
25 for Range Resources-Pine Mountain, Inc.



1                    BUTCH LAMBERT: You may proceed, Mr. Scott.

2                    TIM SCOTT: Thank you, Mr. Chairman.

3

4                    PHIL HORN

5                    having been duly sworn, was examined and testified as  
6                    follows:

7                    DIRECT EXAMINATION

8                    QUESTIONS BY MR. SCOTT:

9                    Q.        Mr. Horn, would you please state your  
10                    name, by whom you're employed and your job description?

11                    A.        My name is Phil Horn. I'm the land  
12                    manager for Range Resources-Pine Mountain, Inc. One of  
13                    my job descriptions is to get wells permitted and  
14                    drilled.

15                    Q.        You're familiar with this acreages, is  
16                    that right?

17                    A.        That's correct.

18                    Q.        And the application?

19                    A.        Yes, I am.

20                    Q.        Are the owners of the minerals set out on  
21                    Exhibit B?

22                    A.        That's correct.

23                    Q.        And can you...who operates the two wells  
24                    from which the well location exception is sought today?

25                    A.        EQT Production Company.

1           Q.       Now, as far as a lot of the acreage on  
2 this particular...that's depicted on the map, Range is  
3 both an owner and an operator because you participate in  
4 these wells, is that right?

5           A.       That's correct.

6           Q.       Okay. How was notice of this hearing  
7 provided to the parties listed on Exhibit B?

8           A.       By certified mail.

9           Q.       And that proof of mailing has been  
10 provided to the Board, is that correct?

11          A.       That's correct.

12          TIM SCOTT: That's all I have for Mr. Horn.

13          BUTCH LAMBERT: Any questions from the Board?

14               (No audible response.)

15          BUTCH LAMBERT: You may continue, Mr. Scott.

16          TIM SCOTT: Thank you, Mr. Chairman.

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GUS JANSEN

24 having been duly sworn, was examined and testified as  
25 follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Jansen, your name, by whom you're employed and your job description, please.

A. My name is Gus Jansen. I'm employed by Range Resources-Pine Mountain, Inc. as the manager of geology.

Q. And you're familiar with this application, is that correct?

A. I am.

Q. And you've got an Exhibit AA that would help you explain why we need a well location exception today, is that correct?

A. Yes. Again, if the Board will refer to Exhibit AA, the proposed well 530321 is in the center of the map outlined in red with the green stippled area. This well has been positioned due to the steep terrain and topographic constraints resulting in...resulting location that provides for the maximum recovery of the remaining nature gas resources with the relationship for the existing offsetting wells. There is no location available meeting the statewide spacing requirements in the vicinity of the proposed well. Also, in this case, we also have co-located this well on an existing CBM location to minimize the surface disturbance area in

1 this area.

2 Q. What would the loss of acreage if...or  
3 the stranded acreage if this application were not  
4 approved today?

5 A. 102.18 acres.

6 Q. And what's the proposed depth of this  
7 well?

8 A. 5,491 feet.

9 Q. The potential loss of reserves?

10 A. 425 million cubic feet of gas.

11 Q. And if the Board grants our application  
12 today, then it would prevent waste, promote conservation  
13 and protect correlative rights, is that correct?

14 A. That is correct.

15 TIM SCOTT: That's all I have for Mr. Jansen.

16 BUTCH LAMBERT: Any questions from the Board?

17 (No audible response.)

18 BUTCH LAMBERT: Anything further, Mr. Scott?

19 TIM SCOTT: That's all I have, Mr. Chairman.

20 BUTCH LAMBERT: Do I have a motion?

21 MARY QUILLEN: Motion to approve.

22 BRUCE PRATHER: Second.

23 BUTCH LAMBERT: Motion and a second. Any  
24 further discussion?

25 (No audible response.)



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DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Horn, again, your name, by whom you're employed and your job description.

A. My name is Phil Horn. I'm the land manager for Range Resources-Pine Mountain, Inc.

Q. And you're familiar with this application, is that correct?

A. Yes, I am.

Q. And you're also familiar with the ownership of the minerals underlying the tracts listed or depicted on the unit, is that correct?

A. Yes. Range owns 100% of the oil and gas inside this unit.

Q. Who operates well number P-157?

A. EQT Production Company.

Q. And Range participates in the operation of that well, is that correct?

A. Yes. We also have an interest in that well.

Q. Okay. How was notice of this hearing provided to the parties listed on Exhibit B?

A. By certified mail.

Q. And we've provided proof of our mailing to the Board, is that correct?

1           A.       That's correct.

2           TIM SCOTT: Okay.    That's all I have for Mr.

3 Horn.

4           BUTCH LAMBERT: Mr. Scott, you testified...or

5 asked Mr. Horn who owned well P-157. Did you mean 247?

6           TIM SCOTT: Did I---?

7           GUS JANSEN: On this one it's incorrect on this

8 exhibit.

9           TIM SCOTT: The Exhibit AA---.

10          PHIL HORN: Oh, it's wrong on our Exhibit...our

11 Exhibit A must be wrong.

12          TIM SCOTT: Yeah, it's supposed to be 157.

13 Isn't that right, Gus?

14          GUS JANSEN: Yeah, it should 157.

15          BRUCE PRATHER: Which well is that?

16          GUS JANSEN: P-247 on the Exhibit AA should be

17 P-157.

18          TIM SCOTT: 157.

19          BUTCH LAMBERT: 157?

20          GUS JANSEN: Yes. We'll get that corrected and

21 get you a corrected copy of that.

22          BUTCH LAMBERT: Any other questions from the

23 Board?

24                (No audible response.)

25          BUTCH LAMBERT: You may continue, Mr. Scott.

1                    TIM SCOTT: Thank you, Mr. Chairman.

2

3                    GUS JANSEN

4                    having been duly sworn, was examined and testified as  
5                    follows:

6                    DIRECT EXAMINATION

7                    QUESTIONS BY MR. SCOTT:

8                    Q.        Mr. Jansen, your name, by whom you're  
9                    employed and your job description, please.

10                  A.        My name is Gus Jansen. I'm employed by  
11                  Range Resources-Pine Mountain, Inc. as the manager of  
12                  geology.

13                  Q.        You're familiar with this application, is  
14                  that correct?

15                  A.        Yes, I am.

16                  Q.        And please tell the Board why we're  
17                  seeking a well location exception from P-157 today?

18                  A.        Yes. Again, if the Board will refer to  
19                  Exhibit AA you'll see the location of proposed well  
20                  530320. This well is outlined in red with the green  
21                  stippled associated with it. This well we've worked  
22                  closely with the surface land owner in this area to  
23                  position the proposed well to a mutually agreed location  
24                  to minimize the potential impact to the surface land  
25                  use. The proposed location results in the maximum



1 recovery of the nature gas resources with relationship  
2 to the existing offsetting wells along with their future  
3 land use plans. In the event the well is not drilled,  
4 approximately 110.1 acres of reserves would be stranded.

5 Q. Okay. Thank you. What's the proposed  
6 depth of this well?

7 A. 6,158 feet.

8 Q. And the potential loss of reserves?

9 A. 425 million cubic feet of gas.

10 Q. And, again, we know that Range is the  
11 owner of the oil and gas, right, under this unit?

12 A. That is correct.

13 Q. And we don't have any correlative rights  
14 issues, is that right?

15 A. That is correct.

16 Q. So, if the application is granted, it  
17 would prevent waste and promote conservation, is that  
18 correct?

19 A. That is correct.

20 TIM SCOTT: That's all I have for Mr. Jansen.

21 BUTCH LAMBERT: Any questions from the Board?

22 (No audible response.)

23 BUTCH LAMBERT: Do I have a motion?

24 MARY QUILLEN: Motion to approve.

25 BRUCE PRATHER: Second.

1                    BUTCH LAMBERT: Motion and a second. Any  
2 further discussion?  
3                    (No audible response.)  
4                    BUTCH LAMBERT: All in favor, signify by saying  
5 yes.  
6                    (All members signify by saying yes.)  
7                    BUTCH LAMBERT: Opposed, no.  
8                    (No audible response.)  
9                    BUTCH LAMBERT: Thank you, Mr. Scott. It's  
10 approved.  
11                    TIM SCOTT: Thank you.  
12                    BUTCH LAMBERT: The next item on the docket is  
13 the Board will now receive an update of the Board and  
14 Division activities from the staff. Mr. Lovette and Mr.  
15 Cooper, could you all tell...tell the Board the results  
16 of your meeting that you had a couple weeks ago with the  
17 industry on the new...some of the new changes...the  
18 changes that we're beginning to implement?  
19                    RICK COOPER: Okay. We had a meeting on trying  
20 to implement some electronic means to expedite the  
21 Board's processes. What we met on, we met on with the  
22 industry we met on trying to get the Board orders online  
23 and expediting that and the disbursement forms. We have  
24 a couple of those. We're working on those templates and  
25 trying to get that in the process. It would really

1 speed up the disbursement process I'm saying 40% to 50%.  
2 All of the companies where there. We've sent them out  
3 copies to look over and make any comments on and we give  
4 them to the end of the month to make comments on that.  
5 We hope to implement this with everyone's approval by  
6 January and let them start sending their Board orders in  
7 electronically through our E-form systems, which you all  
8 may not be familiar with. It's the way that we've been  
9 doing our permitting, supplements and modifications for  
10 a little over two years. It will expedite everything.  
11 If you have any errors, you can get them corrected in 30  
12 minutes or so just by an electronic means instead of  
13 using a fax, email or phone calls and that type of  
14 thing. The discussion went fairly well. All of the  
15 industry representatives seemed to be pretty happy with  
16 the proposal. We had really no major objections that I  
17 can recall. Everybody was all for it. They thought it  
18 would expedite, it would simplify the process and it  
19 would keep this duplication and triplication from  
20 happening where you have to keep asking for papers or  
21 supplements and typos and that type of thing.

22 SHARON PIGEON: Will that be using E-signatures?

23 RICK COOPER: That...the E-signature is...on the  
24 order is the only thing that we haven't ironed out.  
25 Other than that, we have the templates out there for the

1 orders. We have the templates out for the  
2 disbursements. We've identified all of the items on  
3 there that need to be done. Jim, jump right in.

4 JIM LOVETTE: We will probably need an opinion  
5 whether that would make legal...or the proper legal  
6 format and digitally signing that. We've done that with  
7 plats and things like that. I mean, we've addressed  
8 that every time it has come up and have determined or  
9 identified an appropriate legal signature that would  
10 meet all legal requirements. That would probably need  
11 to be done because these are official documents that  
12 come in. But I think today was a very good example,  
13 probably a third of the disbursements or half of them  
14 had...had new exhibits that we're passing back and forth  
15 and it's a real challenge within the files keeping track  
16 of what the old ones are with the ones that have been  
17 updated or some of these easily may have 20 or 25 pages  
18 with only one person changed out of it and to be able to  
19 have a means to be able to electronically submit those  
20 and so all of us are looking at the most recent copies  
21 instead of them coming back later and having things  
22 either mailed in, faxed in or sent by email back and  
23 forth that there would be one location that all of these  
24 would be submitted to and we have record of when it came  
25 in and that we would have the most recent documents.

1           RICK COOPER: And another advantage is they are  
2 all time stamped. A lot of these that come to us they  
3 don't really have dates stamped on them. If they get  
4 into a pile, which sometimes they do, we have some  
5 trouble sometimes distinguishing them. Electronically,  
6 they all come in date stamped and we would know what the  
7 latest version was and what they would be working off  
8 of.

9           SHARON PIGEON: But your plan is...what are you  
10 going to provide the Board? What---?

11           RICK COOPER: We will provide the Board just  
12 like we're continuing to do for now. But for future  
13 reference we would like you all to consider, we would  
14 like to the application online also. That would be the  
15 next phase that we would want to do is go ahead and  
16 process the application online. In early 2012, we would  
17 like to do it by March or April. As far as the Board is  
18 concerned, we can still at this point print out the  
19 paper copies and do just like you're doing now. The  
20 internal effort that we have and for the transactions  
21 that we have with the company, we would be doing all of  
22 that electronically. It really speeds the process up  
23 and it's a lot more efficient. We---.

24           JIM LOVETTE: To---.

25           RICK COOPER: Go ahead.

1                   JIM LOVETTE: To further clarify that, many of  
2 the documents that you're used to seeing would still  
3 need to come in as a pdf because those documents are  
4 recorded such as the plat, the tract identification, a  
5 full copy of the Es, a full copy of the EEs, a full copy  
6 of the B, B-1 and B-3. Whatever would be necessary  
7 for...you know, for the tax records or whatever. So, we  
8 would still have hard copies of those because those are  
9 the copies that would end up going into the Courthouse  
10 for recordation. They would end up just making pdfs of  
11 those and be able to submit those electronically. So,  
12 we're not having to shuffle so many different papers  
13 back and forth.

14                   SHARON PIGEON: For these folks who have changes  
15 basically during the hearing, either they brought  
16 something the day of the hearing to supplement their  
17 exhibits or they need to change one after the hearing  
18 starts, those folks would be bringing a hard copy? I'm  
19 just trying to anticipate what the---.

20                   RICK COOPER: If they have to change one the day  
21 of the hearing, they would bring a hard copy, but then  
22 we would want that submitted electronically to us to  
23 keep the file maintained.

24                   SHARON PIGEON: And if it was discovered during  
25 the hearing that something was in error, they would

1 submit it after the hearing electronically?

2           RICK COOPER: Correct. The way that process  
3 works, we would...for whatever reason, we would reject  
4 their application, that's the term we use, if we're not  
5 approving what they've got. We would reject the  
6 application back to them and then they would resubmit  
7 that with the corrected documents for us to review and  
8 approved and that would be after the Board has already  
9 looked at the hard copy and approved that. But just to  
10 maintain a consistent file, we would need then to go  
11 ahead and do an electronic version of that.

12           BUTCH LAMBERT: But the day of the hearing they  
13 could submit us a paper copy that---?

14           RICK COOPER: Correct. That is correct for  
15 hearing.

16           BUTCH LAMBERT: ---we would have on record, but  
17 they would go back and then do that electronically so it  
18 would---?

19           RICK COOPER: Right.

20           BUTCH LAMBERT: ---build the system?

21           RICK COOPER: Right. It really doesn't...if  
22 they've got that hard copy, they've already got it  
23 anyway. So, it's just a matter of just pushing a button  
24 and sending it to us. So, it's not really any  
25 additional work other than just pushing a button or two

1 and sending it to the E-form center. It doesn't create  
2 any unnecessary work.

3 BUTCH LAMBERT: Okay.

4 SHARON PIGEON: But if it's discovered at the  
5 hearing, they won't have the hard copy.

6 RICK COOPER: Well, I think...at this time we  
7 are still requiring everyone to bring...until we work  
8 through this process for a few months, everybody would  
9 still be bringing the hard copies to the Board hearings  
10 for now and that would have that...if they discover that  
11 between, you know, two days ago and they're coming to  
12 the Board hearing and have not submitted that to us,  
13 they would still be able to bring a hard copy for the  
14 Board to review.

15 SHARON PIGEON: Well, like the hearing that we  
16 just had, Gus had a mistake on his handout, you know.  
17 Obviously, he didn't have a hard copy that has the  
18 correction on it today. So, would your file show that  
19 it had been rejected, is that what you were saying, as  
20 of today?

21 RICK COOPER: For him to submit that, we would  
22 reject this application...whether it was a supplement or  
23 an order, we would reject it back to him and then he  
24 would add that into the file and submit it back to us.

25 BUTCH LAMBERT: But if we didn't find it...just



1 like today, we found it today, we could approve it with  
2 the stipulation that he submit the---.

3 RICK COOPER: That's correct.

4 BUTCH LAMBERT: ---corrected copy.

5 JIM LOVETTE: One our goals is to do things  
6 within the proper time lines. I think within the  
7 disbursement, it says once all documentation is turned  
8 in this person was supposed to be...yeah, acted on  
9 within 30 days. I mean, that's a challenge right now  
10 until we get things lined up. But that's one of the  
11 ways that we're trying to end up meeting some of these  
12 goals. Like today if we found out that there was an  
13 error in one of the...one of the exhibits that, you  
14 know, were turned in, the next day or two as they would  
15 have the opportunity to correct that, they would be able  
16 to just submit that electronically and we would end up  
17 inventorying things and making sure that all documents  
18 and documentation was in as necessary and that's then  
19 when the trigger would end up starting. So, this would  
20 just be a much quicker way and have tracking of when  
21 things were actually turned in and an inventory that  
22 everything was turned in as needed.

23 BUTCH LAMBERT: So, every company is now using  
24 the E-form to submit permit applications?

25 RICK COOPER: Every company is.

1           BUTCH LAMBERT: So, you didn't hear any...any  
2 objections to going down this process using Board orders  
3 and applications?

4           RICK COOPER: As a matter of fact, everyone was  
5 receptive to the idea. They thought we maybe should  
6 have done it a while back. No one complained about  
7 that. They all thought it was a great idea. Everybody  
8 is electronic. They thought it would be much more  
9 efficient. There was no negative comments given by any  
10 of the operators.

11           JIM LOVETTE: This was also---.

12           SHARON PIGEON: If Gus gets...if Gus gets hit by  
13 a car on the way out of here and hasn't provided us this  
14 revised handout AA and we were doing this  
15 electronically, would it have a notation electronically  
16 that this "rejected" because of that form?

17           RICK COOPER: What would happen, if there was a  
18 deficiency in the pooling and I make a note of this, I  
19 or myself would...one of us would go back to the E-form  
20 center and we would reject that back to the company and  
21 in that comment line we would state that whether it  
22 would be an A or an EE or whatever needs to be revised  
23 according to the Board meeting and we would reject it  
24 back to them and then they would resubmit it to us.

25           JIM LOVETTE: Now, when we use the term

1 rejected, I think we need to put that within prospective  
2 that within the E-form system we use that term...as the  
3 companies build their document file and submit it to us  
4 that the only way that they can make a revision on  
5 something is if we actually look at it and then hit the  
6 reject button. That then turns it back to them so that  
7 they can make a revision or put in an updated document  
8 or an updated plat or a correction or anything like  
9 that. You know, these...these are not being approved or  
10 rejected like a permit. But that's the business process  
11 that we use and that's the term that we use as far as  
12 looking things and inventorying what's in...it just  
13 bounces it back to them electronically so they can do  
14 whatever revisions necessary and then send it back in.

15 RICK COOPER: And the reason for---.

16 MARY QUILLEN: That's just a part...excuse me,  
17 that's just a part of the software that they're using in  
18 the E-forms.

19 JIM LOVETTE: Yeah. Yeah.

20 RICK COOPER: Correct. The reason we have it  
21 like is once they submit it to us, they cannot go back  
22 in and make any revisions to it unless we allow them to.  
23 The only way---.

24 MARY QUILLEN: Right.

25 RICK COOPER: ---we can allow them to is reject

1 it back to them.

2 MARY QUILLEN: Right. Right.

3 RICK COOPER: It's a security issue for their  
4 part and our part.

5 JIM LOVETTE: Yeah. I think that what Rick just  
6 said is a very important thing because different users  
7 within the companies have different security access  
8 levels to be able to get into E-forms.

9 MARY QUILLEN: Right.

10 JIM LOVETTE: Some can end up modifying  
11 documents and submitting things. Others just have  
12 permissions to be able to go in and review and view  
13 what's go on---.

14 MARY QUILLEN: Right.

15 JIM LOVETTE: ---and so once we "reject" it  
16 that is just an electronic means of tak...sending it  
17 back to the company so they can make whatever revisions  
18 are necessary and send it back in. You know, this is  
19 not an approval process---.

20 MARY QUILLEN: Right.

21 BUTCH LAMBERT: And that's---.

22 JIM LOVETTE: ---that we as the Board or we as  
23 DGO end up looking at...at the orders that are coming  
24 in. I mean, you guys make the approval. We may want to  
25 be cautious with that term and maybe pick a different

1 term to be able to, you know, send it back to them. But  
2 that has just been the term historically that we have  
3 used to be able to manage documents and applications in  
4 and out of the E-form system.

5 BUTCH LAMBERT: Well, I was going to make that  
6 point, Jim, and you kind of beat me to it. That's not  
7 that you're doing anything approval, denying or---.

8 RICK COOPER: No.

9 BUTCH LAMBERT: That's a Board action. You're  
10 just...you're just the manager of the documents and  
11 keeping all of the history built.

12 RICK COOPER: That's the way we process it.

13 JIM LOVETTE: Yeah. I mean, you know, for this  
14 thing we may want to do a resubmit button or something.  
15 I mean, it's not...we're not having any authority on  
16 whether it's accepted, approved or not. That's the  
17 Board's job. We would just end up being the medium as  
18 far as how things are being submitted and tracked  
19 electronically and so we can better manage our documents  
20 floating back and forth and, you know, get to as  
21 paperless as possible to be able to track and manage  
22 things.

23 BUTCH LAMBERT: It's also important to note,  
24 and, Jim, you or Rick may want to talk about this about  
25 the security. Anybody just can't go in there?

1               RICK COOPER: Right.

2               BUTCH LAMBERT: You have to have a password and  
3 be granted access to your applications.

4               RICK COOPER: Right. The way that works is for  
5 any company, whatever user level they are, whether  
6 they're data input or just query level they...to get  
7 onto the E-form system they have to send documentation  
8 into our office with a Vice President or above approving  
9 that level of viewing. So, not just anybody can get on  
10 there. We do that...we do that through a hard copy.  
11 They can copy it off, but again it has to be from a Vice  
12 President or above has to give approval level whether to  
13 data input or query or whatever the user level might be.  
14 That's security...it's just for security so they can  
15 pick who they want to do that. A lot of companies may  
16 have four or five different contractors doing their  
17 work. So, they can assign four or five different people  
18 to do the work at the same time. They can all be working  
19 on the document at the same time as long as they have  
20 approval.

21               MARY QUILLEN: Well, now if, for instance, there  
22 is something that happens on the day of the Board  
23 meeting like today and they have to make a correction  
24 and we go ahead and approve and vote approval for that  
25 particular docket item, but they still have to get

1 that...whatever document that has to either be submitted  
2 or corrected or whatever to you all it's not officially  
3 approved.

4 RICK COOPER: That's the way we would like to  
5 see it.

6 MARY QUILLEN: Right. And they need to  
7 understand that.

8 RICK COOPER: Correct.

9 MARY QUILLEN: Well, but the Board approved  
10 this, you know, why...but it's with conditions if there  
11 are...and we say we approve this in the motion with the  
12 additional items that are corrected or missing or  
13 whatever the situation would be.

14 BUTCH LAMBERT: And that would be recorded in  
15 the transcripts---.

16 MARY QUILLEN: Right. And have it---.

17 BUTCH LAMBERT: ---that we keep---.

18 MARY QUILLEN: Yeah. I think when we make a  
19 motion if there is one of those that comes up, that  
20 needs to be included in the motion and needs to be in  
21 the transcript.

22 SHARON PIGEON: Well, our form orders say that  
23 the orders are effective the day of the hearing. So, we  
24 might want to---.

25 RICK COOPER: We may have fine tune that

1 somehow.

2 SHARON PIGEON: We may need to address that.

3 JIM LOVETTE: Yeah. That's assuming that all of  
4 the documentation are probably in when it's approved at  
5 the day of the hearing.

6 SHARON PIGEON: Well, I'm sure it is assuming  
7 that, but we don't have anything...anything but that  
8 default position on those orders right now. So, whether  
9 it's in or not in that's what it says.

10 JIM LOVETTE: Some of the orders...yeah, some of  
11 the orders such as a disbursement has very specific  
12 language in the law and the regulations that, you know,  
13 like you said we...one of our goals is to be able to  
14 respect those time lines the best that we can and the  
15 clock, I believe, starts ticking thirty days once all  
16 required documents are sent in so something can be  
17 approved here. But if there are some errors or some  
18 things like that still need---

19 MARY QUILLEN: Right.

20 JIM LOVETTE: ---to be done, they can go ahead  
21 and submit those at their leisure whenever. But then  
22 that time line would not start until everything was  
23 actually submit and/or we end up getting a copy of the  
24 transcript to be able to look at the transcript and make  
25 sure that the transcript matches up with the A-1s and



1 everything else that they ended up sending in.

2           SHARON PIGEON: But that's disbursements  
3 specifically.

4           JIM LOVETTE: Yeah, disbursements specific. I  
5 mean, there's a couple that have specific language in  
6 there for those kind of things.

7           RICK COOPER: And the reason we picked the  
8 pooling orders...the orders and the disbursement, we  
9 have defined that DGO as the major bottleneck on the  
10 reason these disbursements are not coming out in a  
11 timely matter fashion. There are other areas that we  
12 want to address in the near future. But we have defined  
13 those two particular areas that are our bottleneck. So,  
14 internally we can process the disbursements much  
15 quicker.

16           BUTCH LAMBERT: Well, it is not only bottleneck,  
17 but it's taking an extra ordinary amount of resources to  
18 deal with those---.

19           RICK COOPER: It is.

20           BUTCH LAMBERT: ---issues and I'd like to think  
21 Rick and Jim and the staff for taking the initiative to  
22 review these processes and try to simplify them and make  
23 them electronic the best way we can. We've committed to  
24 both the industry and our customers that we will be more  
25 transparent in what we do and try to be able to provide

1 information and the staff at DGO have done an excellent  
2 job in taking that bull by the horns and trying to  
3 resolve some of those issues and we appreciate it.

4 RICK COOPER: One more item. We did also, while  
5 we had this group, we discuss...we had Debbie Davis  
6 there from First Bank & Trust. This working interest  
7 that we've sometimes had trouble finding. We did  
8 request to the group to give us a lump sum total of the  
9 working interest as of December the 1st and they all  
10 agreed to do that, which would be the end of October.  
11 We wanted that in December. From that point forward, we  
12 wanted that separated on the escrow account showing the  
13 working interest. We did put another column on our  
14 escrow file that shows working interest. So, you will  
15 be able to distinguish the working interest and the  
16 royalty interest from the other funds. All of the  
17 operators agreed to that. They thought that was  
18 relatively easy to do.

19 BUTCH LAMBERT: Just to be sure I understood.  
20 They're going to...they're going to do a trial run  
21 looking at that...the new spreadsheet through November--  
22 --?

23 RICK COOPER: Correct.

24 BUTCH LAMBERT: ---and we're going to be ready  
25 to implement it in January, do you think?

1           RICK COOPER: Well, they were supposed to make  
2 comments by the end of November and that could be  
3 through David Sanders our IT manager or whomever they  
4 chose. We gave them three people and they've got until  
5 November to make...the end of November to make those  
6 comments. Then in December it's just a test run to try  
7 it out and see how it works. The full implementation  
8 starting January 1, 2012.

9           JIM LOVETTE: If I could expand on that a little  
10 bit, the meeting that actually Rick was talking about it  
11 was in response to a mandate by the APA audit to be able  
12 to standardize reporting mechanism into production and  
13 the escrow accounts as far as the financial things. So,  
14 that was the main thrust about this meeting and our IT  
15 people have established E-form...an E-form process,  
16 which was a downloadable spreadsheet that they would be  
17 able to download and populate the data locally by the  
18 company and then upload it back in the specific time  
19 frames in it as far as when escrowed moneys need to  
20 start moving into the escrowed account. This was in  
21 response to the recommendations of the APA audit that  
22 had made the last of November, I think it was. We've  
23 got all of IT things done. All the companies are on  
24 Board with this. It was just a matter of identifying  
25 what the proper columns are so all companies could agree

1 on what...what...maybe what is it seven, eight or ten  
2 columns or whatever of information that was reported out  
3 in a consistent manner. So, all of this then could be  
4 formatted into one larger data base and we could end up  
5 looking for exceptions or any problems from that  
6 prospective. And then while we had that audience there,  
7 this was when we began talking about some of the other  
8 things on the horizon because these are the same  
9 financial people that do most of their disbursements and  
10 many of the orders and other things like that and  
11 looking for suggestions from them to be able to make  
12 things much more efficient and more effective because  
13 we've got to change the way we do some business right  
14 now. We're just getting bogged down too much.

15 BUTCH LAMBERT: Well, the audit identified that  
16 we needed to come up with standardized data---.

17 JIM LOVETTE: Yes.

18 BUTCH LAMBERT: Standards in data reporting and  
19 that's what we're working toward.

20 JIM LOVETTE: Correct. And that been completed  
21 and that is in the process and kind of testing within  
22 this next month or so.

23 RICK COOPER: And thinking futuristically, we  
24 would like the Board to look at...you know, if these  
25 applications, if we do get them online we could...we

1 envision...we sort of threw this out to the group, you  
2 know, whether it would six months or five years we just  
3 don't know, but instead of you all having the big piles  
4 of paper, you could do it through a notepad or maybe  
5 even a laptop, some of the items once we get the whole  
6 process electronically. We would like for you all to  
7 think in those terms in the future, you know, if we  
8 could do that.

9 BUTCH LAMBERT: Well, Rick, thank you. Are you  
10 going to buy us all laptops?

11 (Laughs.)

12 SHARON PIGEON: Are you all the originator of  
13 the form that we were having so much problem with today,  
14 the reconciliation form that Jim Kaiser was using that  
15 seem to be different?

16 BUTCH LAMBERT: Yeah.

17 JIM LOVETTE: That was a version of one of the  
18 ones, I believe, that was provided to them last spring.  
19 All of the right data sets were there. They've  
20 (inaudible) and changed some things and so it made it  
21 much more difficult to end up reading. The last...let's  
22 see, the first two boxes that they provided as far as  
23 trying to identify what the total acreage of the unit is  
24 and then the current acreage that's in escrow, those are  
25 virtually working boxes. They wouldn't have needed to

1 provide that to you all. That's a necessary component  
2 of what we're doing right now, I emphasize right  
3 now,---.

4 BUTCH LAMBERT: Right.

5 JIM LOVETTE: ---as far as a quick audit the  
6 DGO attempts to do to be able to verify and justify the  
7 disbursement percentages that are going out. We kind of  
8 do an independent calculation with the best information  
9 that we can come up with also to do an independent  
10 verification to make sure that things are correct and  
11 work with the companies to correct that if necessary.  
12 But all they would have needed to have done was probably  
13 provided the last box on that long sheet that they gave  
14 you, which in essences parallels the A-1 exhibit that  
15 CNX uses most of the time.

16 SHARON PIGEON: That's all we need. Anything  
17 beyond that is confusing.

18 JIM LOVETTE: Yeah. But it's...but it's  
19 formatted a little bit different because...it's the same  
20 information but there's a couple of columns on there  
21 that the DGO ends up looking at as far as documentation  
22 and as far as what their fractional interest is or  
23 fractional ownership. Some of the formatting and things  
24 are done because everything is still paid out by acreage  
25 ownership based upon the number of acres that are held

1 in escrow and then the dollar amounts that are connected  
2 with the acres that are held in escrow.

3 BUTCH LAMBERT: But they're going to be  
4 reporting that to the DGO. So, the Board doesn't need  
5 to see that. All we are interested in is the format  
6 that CNX uses, just straight forward information and not  
7 the calculations and---.

8 JIM LOVETTE: Correct. Correct.

9 BUTCH LAMBERT: ---ask them to make it a little  
10 bigger. Work on them too. That---.

11 JIM LOVETTE: Yeah. Well, part of our  
12 conversations last Wednesday when we ended up having  
13 that meeting, they have all of this information  
14 electronically. A lot of times they ended up giving us  
15 25 pages of paper and we then extract probably almost 20  
16 to 25 different data sets off of the different papers  
17 from the plat, the acreage, things off the tract  
18 identification, things off the supplemental and things  
19 off their most recent order for disbursement and we have  
20 to extract all of those numbers or all of that  
21 information and reformat it and type it back in again.  
22 But they have all of this electronically anyways. So,  
23 if we can set up a template on a spreadsheet or whatever  
24 and they can then connect and have each one of the cells  
25 dedicated to certain data sets, it's just a matter of

1 matching up electronically some of their data bases and  
2 some of their data sets and it will self populate itself  
3 because all of this information is available  
4 electronically anyways. So, we're having to do like a  
5 double data entry, almost a clerical exercise to be able  
6 to do the verifications and to be able to create the  
7 forms and the documents that we need and the orders that  
8 we need.

9 BUTCH LAMBERT: And just so that the Board  
10 knows, Ms. Quillen you asked a question about CNX, are  
11 they paying electronically? We have had inquiries from  
12 EQT about can they start doing that.

13 MARY QUILLEN: Good. Good.

14 BUTCH LAMBERT: That will make everybody's lives  
15 a little easier.

16 MARY QUILLEN: Right. Right. Well, I think  
17 that's something that we really need to consistently  
18 push is getting everybody to make those deposits  
19 electronically. Just like all of this information, it  
20 causes or creates double work for you all because you  
21 have to go in and...well, we saw an example of that of  
22 all of this stuff that we didn't need today, you know.  
23 And you're sitting there and it's, you know, this big  
24 and you've got all of this additional information that  
25 you...you know, really don't need and you've having to



1 go through and pull of that out what you need when if  
2 they have a template they can enter that in one time.  
3 It's creating more work for you and more work for them  
4 because they're not doing...not putting it in to each of  
5 those categories in a template that's going to be easy  
6 for you all to pull off and for us to get what we need.

7 RICK COOPER: I couldn't have said it better and  
8 couldn't agree more.

9 JIM LOVETTE: What we're trying to do is to get  
10 to a point where they self populate and develop  
11 virtually all of the tables that can be brought right  
12 into one of the orders and then our role is just simply  
13 to verify the data and to make sure that the acreage  
14 that they have---.

15 MARY QUILLEN: Right.

16 JIM LOVETTE: ---matches with the plat and a  
17 number of other things. A good example of that is like  
18 how we do our permits. The plat comes in, but the  
19 location for the well, which is number that has about 10  
20 digits to it, they go ahead and enter that because  
21 that's what's connected in within our mapping system as  
22 far as the right location. We make sure that they enter  
23 that on page one. We look at the plat that's attached,  
24 which is a digitally signed DWG file and it has all of  
25 the legal requirements necessary. But it's just...it's

1 a real quick verification that what the certified plat  
2 is and what has been surveyed actually matches up with  
3 the information that has gone on to the form. But we're  
4 not the one sitting in there poking our fingers. We did  
5 that at one time, but we put then the...we put that  
6 responsibilities back on the companies.

7 BUTCH LAMBERT: Okay. Thank you. Any other  
8 updates?

9 RICK COOPER: No. No.

10 BUTCH LAMBERT: Okay. The last item on the  
11 agenda is we will review the minutes from the October  
12 meeting. Are there any additions or corrections that  
13 need to be made to those minutes?

14 (No audible response.)

15 BUTCH LAMBERT: If not, I'll ask for a motion to  
16 approve.

17 MARY QUILLEN: Motion to approve.

18 BRUCE PRATHER: Second.

19 BUTCH LAMBERT: I have a motion and second. All  
20 in favor, signify by saying yes.

21 (All members signify by saying yes.)

22 BUTCH LAMBERT: Opposed, no.

23 (No audible response.)

24 BUTCH LAMBERT: Okay, folks, I guess our next  
25 meeting is December the 20th. Are there any conflicts?

1 Is there anybody that does not plan to be here or cannot  
2 be here?

3 BRUCE PRATHER: I probably won't be here.

4 BUTCH LAMBERT: Okay.

5 BRUCE PRATHER: I've got...my daughter is being  
6 operated on the 19th up in West Virginia.

7 BUTCH LAMBERT: Okay.

8 MARY QUILLEN: And it's the 20th?

9 BRUCE PRATHER: I mean, if it's changed I'll be  
10 here. Otherwise---.

11 MARY QUILLEN: The 20th, I'm good for the 20th.

12 BUTCH LAMBERT: Okay. I'm not sure about Mr.  
13 Ratliff. He has got a lot going on. The General  
14 Assembly is now starting to crank up. He may or may  
15 not...I understand Mr. Harris does not have a conflict.  
16 So, I think we will have a quorum.

17 BRUCE PRATHER: Okay.

18 MARY QUILLEN: Yeah, because the college will be  
19 out by then. So, he wouldn't have any...any work  
20 related---.

21 BUTCH LAMBERT: Let me just ask if anyone...if  
22 you see that you're going to have a conflict, please  
23 notify us as quickly as you can so we can reschedule or  
24 try to make up something. The end of the year I know  
25 folks are...especially the companies are wanting to get

1 things out the door before the end of the year.  
2 So...okay, everybody, if we don't see you again, have a  
3 Happy Thanksgiving and we'll see you in December.

4 BRUCE PRATHER: You do the same.

5

6 STATE OF VIRGINIA,

7 COUNTY OF BUCHANAN, to-wit:

8 I, Sonya Michelle Brown, Court Reporter and  
9 Notary Public for the State of Virginia, do hereby  
10 certify that the foregoing hearing was recorded by me on  
11 a tape recording machine and later transcribed by me.

12 Given under my hand and seal on this the 12th  
13 day of December, 2011.

14

15 \_\_\_\_\_ NOTARY PUBLIC

16 My commission expires: August 31, 2013.

17 My Notary Reg. #: 186661

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